

# THE SUTTON LAW FIRM

September 7, 2021

VIA EMAIL & OVERNIGHT DELIVERY

Angela Brereton, Esq.  
Chief of Enforcement Division  
Fair Political Practices Commission  
1102 Q St., Ste. 3000

RE: Complaint Regarding Illegal Coordination and Reporting Errors

Dear Ms. Brereton:

On behalf of our client, the Pamela Price for Alameda County District Attorney Campaign 2022, we respectfully submit this complaint against a political committee which spent hundreds of thousands of dollars on “independent expenditures” opposing Ms. Price’s candidacy in 2018 while, at the same time, representatives of the committee coordinated the mail pieces and other supposedly independent activities with agents of District Attorney O’Malley’s re-election campaign, and perhaps with District Attorney O’Malley herself. We have also submitted the complaint through the FPPC’s online system.

Specifically, the attached emails<sup>1</sup> show that employees in the District Attorney’s office working on District Attorney O’Malley’s re-election campaign communicated on numerous occasions with the Principal Officers and campaign consultants for “Californians United for Safe Neighborhoods and Schools Opposing Pamela Price for District Attorney 2018” (hereinafter referred to as “Committee”), as well as with the police officer associations which sponsored the Committee. For example, and perhaps most notably, Deputy District Attorney Colleen McMahan is on an email chain with the Committee’s Principal Officers Paul Kelly and Hanna Tarjamo and the Committee’s campaign consultants about raising additional funds in order to pay for and disseminate anti-Price digital ads; this email chain also discusses and attaches three anti-Price mail pieces distributed by the Committee. This one email chain itself warrants an FPPC investigation. Deputy District Attorneys McMahan and John Brouhard also emailed about a thank you note, immediately after the election, to the police officers associations and other contributors to the Committee. In another email, Assistant Chief of Inspectors Craig Chew is contacted by a police officers association in order to obtain a photo

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<sup>1</sup>All of the emails were obtained through a Public Records Act request submitted to the District Attorney’s office earlier this year.

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from “her campaign” to include in a newspaper political ad.

As you can see, the name and email address of one person on these email chains was redacted by the District Attorney’s office when it responded to the Public Records Act request, including in the above-referenced email soliciting funds for digital ads. We believe that this person could be District Attorney O’Malley, and that the District Attorney’s office redacted her name and email because it was her personal email address. A communication between an independent expenditure committee and the candidate herself is per se illegal coordination.

Coordinating campaign ads, fundraising and other campaign activities with representatives of a candidate’s campaign, while spending hundreds of thousands of dollars on the communications, and then claiming that the communications are “independent expenditures” not subject to limits, is one of the most serious violations of the state’s campaign laws. (See Cal. Govt. Code section 82031.) Illegally coordinating supposedly independent expenditures with a candidate’s campaign warrants fines up to \$5,000 per violation or three times the cost of the communication (Cal. Govt. Code sections 83116 & 91000 et seq.), and the FPPC has levied significant fines for coordination violations in the past.

In addition to the attached emails about coordination, we have attached numerous other emails from and to employees of the District Attorney’s office which relate to campaign activities of District Attorney O’Malley and/or to Ms. Price’s campaigns. All of these emails are on the government email system of the District Attorney’s office. Such a frequent and pervasive use of the government email system to promote District Attorney O’Malley’s re-election and to monitor the political activities of her political opponent, all during work hours, constitutes an in-kind contribution from the District Attorney’s office to the O’Malley campaign, which should have been reported by the O’Malley campaign committee and perhaps even the District Attorney’s office. (Cal. Govt. Code sections 82015 & 84211.)<sup>2</sup>

These matters require the FPPC’s immediate attention, given that Ms. Price has entered the race for District Attorney in 2022 and given that the Committee and its sponsors are very likely considering spending money on additional hit pieces against Ms. Price during this cycle. In fact, the attached email from March of this year, in which Deputy District

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<sup>2</sup>As you know, using the government email system of the District Attorney’s office for political purposes is against the law. (See Cal. Govt. Code sections 8314 & 54964; Penal Code section 424.)

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Attorney Jennifer Mitlo discusses Ms. Prices's 2022 election bid, shows that these legal violations are likely to occur again.

Thank you for your immediate attention to this matter, and please let us know if you need any additional information regarding the Committee or Ms. Price's campaign.

Sincerely,



James R. Sutton

Attachments  
JRS/sal  
#2277.01