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September 17, 2018

Honorable Jerry Brown
Governor, State of California
State Capitol, Suite 1173
Sacramento, CA 95814

Cc: The Honorable Kevin Mullin

RE: AB 2155 (Mullin) – AB 249 Cleanup Bill – Support

Dear Governor Brown:

As sponsor of last year's AB 249, the *California DISCLOSE Act*, that you signed into law, we are pleased to support AB 2155 (Mullin), a cleanup bill to clarify the intent of AB 249 in several different important places after questions by the Fair Political Practices Commission (FPPC) and after seeing some of the initial disclosures using AB 249 regulations.

Key clarifications based on issues that arose at the FPPC:

- In hearings implementing regulations for AB 249, FPPC staff recommended that yard signs, posters, door hangers, flyers, direct mailings, telephone, fax, and email messages all be excluded from the definition of "advertisement" and therefore any disclosure requirements at all if they were produced in quantities of 200 or fewer. They proposed this despite the AB 249's author's and sponsor's clearly stated intent that its disclosures were meant to appear regardless of quantity, with the exception of limited types of communications paid for by candidate and political party committees explicated in Section 84310 and 84310, and despite the fact that there was no other language in AB 249 that could be interpreted as calling for such quantity exceptions.

Fortunately, a majority of the Commission agreed with AB 249's author, sponsor, and other supporters, but it's important to clarify the Section 84501 definition of "advertisement" anyway. AB 2155 clarifies that "advertisement" applies to communications regardless of quantity, but providing two new specific exemptions that stakeholders raised as cases that shouldn't require AB 249's disclosures. These include (1) email or text messages to an organization's supporters who have opted in or asked to receive messages from the organization and (2) communications that were solicited by the recipient, including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization.

- AB 2155 also clarifies in Section 84501(2)(l) that the FPPC's ability to exclude additional communications from being defined as "advertisements" only applies to types of communications for which inclusion of the disclosures would be impracticable, and in Section 84501.1 that the Commission shall not change or insert any quantity thresholds that are not specified in the sections.
- A committee asked the FPPC if they could exclude listing a 501(c)3 non-profit organization as one of its top three contributors of independent expenditure ads they were planning in regards to candidates, because 501(c)3s aren't legally allowed to spend money on candidate campaigns. AB 2155 clarifies this

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by saying that if an advertisement paid for by a committee supports or opposes a candidate, it shall not disclose a 501(c)(3) on ads as one of its top contributors, nor any other person who prohibited their funds in writing to support or oppose candidates, as long as the committee does not use such contributions to support or oppose candidates.

Key clarifications to make formatting match AB 249's intent:

- Clarifies the formatting of TV, print, and email advertisements to match AB 249's intent after seeing how some of the first advertisements using AB 249 disclosure rules are mistakenly interpreting it. For example, some disclosures on print ads have shown the top contributor on the same line as the name of the committee, though the intent of AB 249 was that each of the top 3 contributors listed on TV and print ads be on separate lines. Some disclosures on both TV and print ads made the name of the top contributors so narrow that they were difficult to read, as well purposefully formatted their ads in a way to reduce their font size in a way that was never intended in AB 249 and that doesn't match what was shown as examples to you or the legislature. AB 2155's amendments to Section 84504.1 and 84504.2 clarify AB 249's intent for their formatting.
- AB 249 also turns out not to have defined the placement and underlining parts of the print ad disclosures as clearly as was intended and as was shown to legislators in examples of what it was meant to do. Amendments to Section 84504.2 clarify those intended disclosure requirements.
- The intent of AB 249 was to make as clear as possible to voters what portion of an advertisement was a disclosure of who was paying for it. But some voters have since expressed that they were confused on ads whether the AB 249's "Paid for by" disclosures were saying that the ad was paid for by the committee with its top 3 contributors, or whether the ballot measure itself was paid for by the committee. AB 2155 clarifies that for voters by saying that its disclosures should start with "Ad Paid for by" instead of "Paid for by".

As sponsors of AB 249, we believe these amendments will serve to clarify AB 249's intent as was described to you and the legislature. AB 2155 has no opposition and passed the Assembly and Senate with bipartisan votes of 66-6 and 28-5, respectively. It is also supported by the League of Women Voters of California and the Fair Political Practices Commission.

For these reasons, we respectfully request that you sign AB 2155.

Sincerely,



Trent Lange
President, California Clean Money Campaign