

Anti-Rutherford effort may have broken law

October 16, 2010

A series of mailers targeting San Bernardino County supervisorial candidate Janice Rutherford appears to have violated California's Political Reform Act.

The negative advertisements, which popped up recently in mailboxes in Upland, Rancho Cucamonga and Fontana, indicate they were sent by a campaign committee called Citizens Against Corruption Opposing Rutherford for Supervisor 2010. The mailers lack a statement that indicates they were not authorized by a candidate in the race or a candidate's committee.

A relatively new section of the Political Reform Act requires that disclaimer on any advertisement paid for by an independent committee that supports or opposes a candidate.

“Evidently because of an error during the production and distribution of the mailers, a number of them may not contain a statement indicating that they were not authorized by a candidate or committee controlled by a candidate,” said Jesse Mainardi, treasurer for the committee and an attorney for The Sutton Law Firm, which is providing legal counsel to the committee. “The committee has made every effort to comply with state law's disclaimer requirements and its mailers clearly identify the committee as the sender of those mailers.”

Mainardi said the mailers were not authorized by a candidate or a committee controlled by a candidate.

Rutherford, a Fontana City Council member, is running against Supervisor Paul Biane in the county's 2nd District.

Rutherford said her campaign was not behind the mailers. The Biane campaign was not involved with the mailers either, campaign spokesman Chris Jones said.

The Sutton Law Firm specializes in election and campaign finance law. Its founder, James R. Sutton, a longtime player in San Francisco politics, has run afoul of the Political Reform Act before.

While the firm specializes in all manner of campaign and campaign finance law, Bob Stern, president of the Los Angeles-based Center for Governmental Studies, said Sutton and his firm are “known to be involved with independent expenditure committees.”

Before founding his own firm, Sutton was with another Northern California firm, Nielsen, Merksamer, Parrinello, Mueller and Naylor.

In 2002, when he was with that firm, Sutton served as the treasurer of a campaign committee fighting a San Francisco ballot measure. Two years later, Sutton, his firm and Pacific Gas and Electric - the company providing major funding for that campaign committee - were fined a total of \$240,000 after the state Fair Political Practices Commission found that Sutton had not properly disclosed contributions totaling \$800,000 from the utility company to the campaign.

The FPPC found the lack of disclosure was a result of negligence.

Rutherford said the mailers - one saying she would bring “Fontana's problems” to Rancho Cucamonga and two questioning her ethics - are skirting campaign finance laws.

“I don't know Mr. Sutton,” she said. “But he and his clients aren't following the law. Their intent is to deceive the voters.”

While the mailers don't give any indication of who gave money to the committee, the committee behind the mailers very likely has not violated any campaign finance rules - beyond the lack of a statement noting the mailers were not authorized by a candidate, Stern said.

“They disclose what's required,” Stern said of Sutton's firm. “They don't go out of their way to disclose things they don't have to.”

The committee targeting Rutherford filed campaign paperwork with the San Bernardino County Registrar of Voters Office on Tuesday. The committee won't have to file paperwork listing its donors until Oct. 21.

Mainardi said the committee will meet the filing deadline.

But if the committee had received a certain amount of funds from some contributors or was funded almost entirely by a single contributor, the mailers would have had to include more information about where the committee's money came from.

Given that one required statement did not appear on the mailers, Rutherford said she would not be surprised if more required information were missing.

“I think it's pretty clear from the way these have been designed and from the lack of disclosure, they don't want people to know who they are,” she said. “For that reason alone, people should be suspicious.”