

# Sworn Formal Complaint Against OC Supervisor Andrew Do

October 17, 2016

## SWORN FORMAL COMPLAINT

17 October 2016

### Person Making Complaint:

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### Persons Who Allegedly Violated the Political Reform Act:

Andrew Do, Orange County Supervisor, District 1  
10 Civic Center Plaza  
Santa Ana, California 92702  
Phone: 714 834-3110  
FAX: Unknown  
e-mail: Andrew.do@ocgov.com

Lisa Bartlett, Orange County Supervisor, District 5  
10 Civic Center Plaza  
Santa Ana, California 92702  
Phone: 724 834-3550  
FAX: Unknown  
e-mail: Lisa.bartlett@ocgov.com

### Facts Constituting the Alleged Violations:

The above two Supervisors have issued numerous mailers/flyers at county expense. It is believed that these mailers/flyers constitute campaigning at public expense because they are not issued by the Board as a whole, but by an individual Supervisor with his/her name prominently displayed on both sides of the full-color mailers. In some cases, the Supervisor in question is up for re-election.

Furthermore, none of these mailers indicate they are paid for by the County of Orange. Even though they have an appearance resembling typical campaign mailers, there is no attribution that they are paid for by the County and not by the candidate or his/her campaign committee. Specifically:

### Supervisor Andrew Do

Andrew Do was a candidate for re-election in the June 2016 primary and is again a candidate for re-election in the November 2016 general election.

Since the beginning of this year, at least 19 mailers/flyers have been produced and distributed at county expense. Andrew Do's name is prominently displayed once on the front side and three times on the back side including his e-mail address (Andrew.do@ocgov.com). To-date approximately **516,000** pieces of mail have been produced and distributed at county expense for a cost to the county of at least **\$175,000**. Copies of some of these mailers/flyers are included with this Complaint.

Additionally, it should be noted that four of these mailers were to announce "Community Coffees" to be held at four different locations within the First Supervisorial District. These coffees were not "county events",

but were events unique to Andrew Do. It should be pretty obvious these were campaign-related events and not "county events". Their sole purpose is to promote Andrew Do who is running for re-election on the November 2016 ballot.

**Supervisor Lisa Bartlett**

Since the beginning of this year 8 mailers/flyers containing her name on the front and back sides as well as her e-mail address which also includes her name, were produced and distributed at public expense. The 8 mailers to-date have cost the county approximately \$137,600 with around 496,000 pieces being distributed.

Unlike Supervisor Do, Supervisor Bartlett is not up for re-election this year. Nevertheless she is receiving a considerable benefit at public expense as the mailers are promoting her amongst the 5<sup>th</sup> Supervisorial District voters. Normally, a Supervisor would be spending their campaign funds for this type of exposure.

**Identification of Paid For By . . .**

None of these mailers carried any identification as to who paid for the production and distribution of these mailers/flyers. Therefore, Orange County voters residing in their respective Supervisorial Districts are unaware that their taxes and other public funds are being used to unfairly benefit Mr. Do and Mrs. Bartlett and disadvantage any challengers running against them.

**Sections of the Political Reform Act Allegedly Violated:**

**Reg. 18901 (b) (1) :**

"(b) Notwithstanding subdivision (a), mass mailing of the following items is not prohibited by section 89001:

(1) Any item in which the elected officer's name appears only in the letterhead or logotype of the stationery, . . . Such item may not include the elected officer's photograph, signature, or any other reference to the elected officer, except as specifically permitted in this subdivision (b) (1) or elsewhere in this regulation."

**Alleged Violation:** Virtually all of the Do and Bartlett mailers prominently display their names at least twice on the back side. Reference is also made to their Supervisorial District number and this is made in several places on each mailer. Their e-mail addresses which include their names, are also located on the back sides of the mailers. All told, on most of their mailers their name and reference to their official position (Supervisor District \_\_\_\_ ) appear a total of five (5) times.

**Reg. 18901 (b) (6) :**

"(b) Notwithstanding subdivision (a), mass mailing of the following items is not prohibited by section 89001:

(6) Any item sent by a agency responsible for administering a government program, to persons subject to that program, in any instance where the mailing of such item is essential in the functioning of the program, where the item does not include the elected officer's photograph, and where use of the elected officer's name, office, title, or signature is necessary to the functioning of the program."

**Alleged Violation:** Supervisor Andrew Do or Lisa Bartlett were not necessary for the functioning of the various county events identified in the mailers (with the possible exception of the four "Community Coffee" events held by Andrew Do which we allege were NOT county events and in fact, are unique to Andrew Do.

**Reg 18901 (b) (9) (B) :**

"(b) Notwithstanding subdivision (a), mass mailing of the following items is not prohibited by section 89001:

(9) (B) Any announcement provided for in this subdivision (b) (9) shall not include the elected officer's photograph or signature and may include only a **single** mention of the elected officer's name except as permitted elsewhere in this regulation."

**Alleged Violation:** The mailers single out Andrew Do and Lisa Bartlett's names twice in boldface and enlarged type size on the back sides of the mailers. Additionally their e-mail addresses which include their names, are also shown on the back sides of the mailers. The front side of the mailers include their name and elected office description in the return address. In summary, their names are present at least 3 times on the back of the mailers - which exceeds the required "single" mention of their names. Not to mention that several references on each mailer designates their position as "Supervisor First District" or "Supervisor Fifth District".

**Reg. 18901 (c) (2) :**

"(c) The following definitions shall govern the interpretation of this regulation:

(2) "Features an elected officer" means that the item mailed includes the elected officer's photograph or signature, or singles out the elected officer by the manner of display of his or her name or office in the layout of the document, such as by headlines, captions, type size, typeface, or type color."

**Alleged Violation:** All of the mailings prominently display each Supervisor's name in bold typeface and in larger type size. Although these were events paid for by the county and were of interest to all county residents, only their constituents were informed of the events. These mailers singled out both Do and Bartlett to the exclusion of the other four County Supervisors. There is no question these mailers "feature an elected officer" and if it is the intention of Regulation 18901 and Section 89001 of the Political Reform Act to prohibit "featuring an elected officer" then certainly these mailers should be prohibited.

**Summary of Alleged Violations:** It is abundantly clear that a significant number of mailers have been produced and distributed at public expense that singled out Andrew Do and Lisa Bartlett in violation of the aforementioned regulation. Doubly offensive is the fact that these mailers are being sent only to voting constituents in Supervisor Do's district AND Supervisor Do is running for election on the November 2016 general election after failing to garner 50%+1 votes in the June 2016 primary election. If elected officials are allowed to produce mailers of this type at public expense, particularly in their election years, then it gives that elected official an unfair advantage over any challengers who do not have the benefit of using public funds to promote themselves.

**Name and Addresses of Potential Witnesses:**

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