

COMPLAINT AND REQUEST FOR INVESTIGATION OF VIOLATIONS OF THE POLITICAL REFORM ACT

The International Brotherhood of Electrical Workers Local # 1245 hereby files this Complaint against Up from the Ashes and unknown persons for violations of the Political Reform Act.

Up from the Ashes (UFTA) is a front organization created to conceal the identities of law firms who do not want the public to know they are paying a lobbyist to persuade the government to preserve billions of dollars in legal fees. This deprives the public of their right under California law to know who is paying to influence their government so they can evaluate those efforts and the behavior of their government. We urge the FPPC to enforce the law and vindicate the public's rights by investigating UFTA and its backers, and compelling those behind it to disclose their identities.

BACKGROUND

UFTA was registered on April 11, 2018 with the California Secretary of State as a California nonprofit organization. (See Exhibit 1.) A lobbyist then disclosed that—on that very same day—he began lobbying on behalf UFTA and that its address is 650 California Street, 6th Floor, in San Francisco. (See Exhibit 2.) UFTA's San Francisco address is also the address of the person it disclosed as its 'responsible officer,' Frank Pitre.

Mr. Pitre is a trial lawyer with the firm of Cotchett, Pitre & McCarthy, LLP. He is a past President of the Consumer Attorneys of California (CAOC), an association of plaintiff's attorneys, and his firm is currently identified as a "Benefactor" of the CAOC's "President's Club." Mr. Pitre's biography on his firm website also states that he was "appointed as Co-Lead Counsel on behalf of the victims of the North Bay Wild Fires." (<https://www.cpmlegal.com/attorneys-Frank-Pitre.html>.) On April 30, 2018, on a segment of the 10:00 p.m. news on KTVU2, Mr. Pitre attacked PG&E for lobbying the California government with regard to its potential liability for damage caused by fires in the future.

Patrick McCallum of the McCallum Group, a lobbyist who is also a victim of the North Bay fires, has begun a campaign to influence California's government to advance the trial lawyers' interests. Although Mr. McCallum's personal experience during the fires deserves sympathy, it does not give him license to help Mr. Pitre and UFTA's other backers deceive the people of California and violate the law. And yet, from its inception, Mr. McCallum's lobbying campaign

on behalf of UFTA has included explicit efforts to misinform the public about the nature of UFTA.

On April 12, the day after UFTA registered itself as a nonprofit corporation with the Secretary of State, McCallum falsely claimed in an opinion piece published by the Sacramento Bee that UFTA is “a coalition of wine country fire victims.” Patrick McCallum, *If PG&E started the wine country fires, they should pay. Don't blame climate change*, SACRAMENTO BEE (April 12, 2018) <http://www.sacbee.com/opinion/california-forum/article208662829.html>. On April 26, McCallum was quoted in an article about insurance claims arising from the North Bay fires published by Fox KTVU. <http://www.ktvu.com/news/wine-country-insurance-wars-the-clock-is-ticking>. In the article, he deceptively omits the fact he is a lobbyist for UFTA and instead identifies himself as merely a higher education lobbyist. He mentions UFTA, but only to falsely describe it as a group “created by [fire] victims.”

McCallum subsequently testified on behalf of UFTA before the Senate Standing Committee on Energy, Utilities and Communications on April 18th, before the Senate Standing Committee on Governmental Organization on April 23rd, and before the Senate Standing Committee on Insurance on April 25th. As with his other public statements, during his testimony on behalf of UFTA, Mr. McCollum claimed that he represented “a coalition of the thousands of fire victims of the recent fires.”

As UFTA’s paid lobbyist, Mr. McCallum’s claims about the nature of the UFTA and the interests it serves are betrayed by the fact that, the day before the Sacramento Bee published his commentary on April 12, he wrote in an email that he was “hired by a group funded by the consumer attorneys . . . The name of the group is Up From the Ashes.” Email from Patrick McCollum (April 11, 2018) (Exhibit 3). Indeed, an Amendment to Registration Statement filed by Mr. McCallum on April 12, 2018, included a lobbying a Lobbying Firm Activity Authorization signed by Frank Pitre himself that states that UFTA is in fact a group “with a common economic interest which is principally represented or from which membership or financial support is principally derived” and that interest group is a “[g]roup of individual Law Firms.” (Exhibit 4.)

The public has a right to determine if UFTA is nothing more than a means for a group of trial lawyers to profit off of the tragic fires, one part of a public misinformation campaign conducted while hiding their identities behind UFTA. Or if its lobbyist is publicly and repeatedly misrepresenting the nature of the

group he serves. Only the FPPC has the authority to determine whether UFTA's advocacy or its filings are accurate, because both cannot be.

LEGAL ANALYSIS

Trial lawyers are paying a seasoned lobbyist to wage an influence campaign on their behalf and using UFTA as a front company to conceal their involvement while their lobbyist publicly misrepresents the nature of that front company as an association of fire victims. At the close of the next quarter, those law firms must either identify themselves and disclose their conduit payments through UFTA to Mr. McCallum, or the FPPC should compel Mr. McCallum to disclose his true clients and their interests pursuant to Cal. Gov't Code § 86104(d).

Contract lobbyists like Mr. McCallum must register as lobbyists if they are paid or promised \$2,000 to lobby in a calendar month. (2 Cal. Code Regs. § 8239(b).) Mr. McCallum registered as a lobbyist for UFTA. When hired by a person, a lobbyist's registration must include the full name, business address, and telephone number of the person employing the lobbyist and "[i]nformation sufficient to identify the nature and interests of the person[.]" (Cal. Gov't Code § 86104(d).)

Here, Mr. McCallum's registration statement disclosed he represented UFTA but the written authorization for his work was signed by Frank Pitre—as noted above the past President of the Consumer Attorneys of California and Co-Lead Counsel for victims of the North Bay Wild Fires. In fact, instead of stating that UFTA was a coalition OF wild fire victims, as Mr. McCallum does during his lobbying efforts, Mr. Pitre's authorization for Mr. McCollum's advocacy states that UFTA is a coalition FOR victims of wild fires and, further, that the interest "principally represented or from which membership or financial support [of UFTA] is principally derived" is actually a "[g]roup of individual law firms."

Consequently, either UFTA is publicly misrepresenting itself as a group of *fire victims* when in fact it is *a group of trial lawyers*—or the documents filed by UFTA regarding its nature and interests are inaccurate. Moreover, if UFTA is a group of trial lawyers "principally represented or from which membership or financial support is principally derived," then the statement of its nature and purpose ("Coalition for victims of California wild fires") on its Lobbying Firm Activity Authorization is also of doubtful accuracy.

UFTA's lobbying authorization form begs the question as to whether the actual clients, or "lobbyist employers" under California Government Code § 82039.5, are the mysterious group of law firms purportedly shielded from view by the creation of a sham organization. If the law firms number ten or more, they could have qualified and registered as a lobbying coalition. (2 Cal. Code Regs. § 18616.4) Members of a lobbying coalition, are required to also disclose the names and addresses of each member and the amount they paid to the coalition. California Government Code § 18616.4(b). If the law firms are not a lobbying coalition, or number fewer than ten, then each must authorize the lobbying firm as a lobbyist employer. UFTA's authorization of McCallum to lobby on its behalf indicates that it is NOT a lobbying coalition. Accordingly, all of the law firms should have filed Lobbying Firm Activity Authorizations (Form 602).

The circumstances will certainly be clarified after the close of the current quarter because California Government Code § 86115 states that "[a]ny person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter" must file reports required by California Government Code § 86116 (underscoring added). Payments triggering this reporting obligation include:

- (a) Direct or indirect payment to a lobbyist . . . by a person employing or contracting for the services of the lobbyist separately or jointly with other persons;
- (b) Payment in support or assistance of a lobbyist or his activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

California Government Code § 82045. Persons who trigger this reporting obligation must disclose:

- (a) Their name, business address, and telephone number of the lobbyist employer or other person filing the report.
- (b) The total amount of payments to each lobbying firm.
- (c) The total amount of all payments to lobbyists employed by the filer.
- (d) A description of the specific lobbying interests of the filer.

(e) A periodic report completed and verified by each lobbyist employed by a lobbyist employer pursuant to Section 86113 .

(f) Each activity expense of the filer. A total of all activity expenses of the filer shall be included.

(g) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, or a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support the officer or candidate. If this contribution is reported by the filer or by a committee sponsored by the filer in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee, and the identification number of the committee.

(h) . . . the total of all other payments to influence legislative or administrative action including overhead expenses[.]

California Government Code § 86116.

These lobbying disclosure requirements prevent lobbyists from “[a]ttempt[ing] to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action . . .” California Government Code § 86205(d).

CONCLUSION

Unknown law firms seeking to influence the people and government of California have concocted UFTA as a front organization to conceal themselves from the public scrutiny the law was designed to enable. In recent years the FPPC has laudably acted to reveal “shadow lobbying” by unregistered consultants and undisclosed entertainment. In the context of campaigns, the FPPC has long made disclosure of the true source of funding of political spending its top priority. By requiring Up from the Ashes to fully disclose the identity of the trial lawyers purporting to be a group of fire victims and the true source of its funding, or forcing UFTA to disavow the misrepresentations made in the course of its lobbying, the FPPC will help the public understand and evaluate the driving force behind the organization’s messages.