



**TONY RACKAUCKAS**  
**ORANGE COUNTY DISTRICT ATTORNEY**

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ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE  
401 CIVIC CENTER DRIVE WEST • SANTA ANA, CA 92701 (714) 834-3636

May 31, 2016

**HAND DELIVERED**

MR. LEON J. PAGE, County Counsel  
County of Orange  
333 West Santa Ana Blvd., Suite 407  
Santa Ana, CA 92701

Re: Impersonating an Assistant District Attorney  
Supervisor Todd Spitzer

Dear Mr. Page:

I am writing you this letter to officially notify you of an incident where an elected member of the Orange County Board of Supervisors falsely claimed to be an employee of the Orange County District Attorney's Office (OCDA) and then using this false identity he proceeded to engage in a political activity by asking county residents to vote in favor of a measure on the ballot in the upcoming June 7th election. On May 26, 2016, many residents in Orange County, including OCDA prosecutors, received a pre-recorded political phone message from Supervisor Todd Spitzer. Attached to this letter please find a CD containing the recording of the message which stated the following:

Hello, this is County Supervisor Todd Spitzer. I have always played by the rules. **As an assistant district attorney, I know** that many politicians do not. We must have oversight of politicians in Orange County. So please join me and other good government advocates and vote yes on Measure A on your vote by mail ballot or at the voting booth itself on June 7<sup>th</sup>. Measure A will create a truly independent ethics commission free of political influence and corruption. Remember, vote yes on Measure A.

As you know, our office, as is any other County agency, is ethically and legally prohibited from taking a position in connection with any measure or proposition that is going to be on the ballot. It is as a result of this prohibition that deputy district attorneys and assistant district attorneys are trained and instructed to never engage in any political activity in their official capacity. This rule is in place to make sure that any political position taken by a deputy district attorney or assistant district attorney in his or her private capacity is not viewed as a position taken by the OCDA.

As I am sure you are aware, Mr. Spitzer is not currently an assistant district attorney in the OCDA, and his employment with our office ended almost six years ago in 2010.

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Clearly, in addition to identifying himself as a County Supervisor, Mr. Spitzer falsely identifies himself in the May 26, 2016, pre-recorded political message as a current assistant district attorney. Furthermore, Mr. Spitzer is attempting to persuade the residents of Orange County to vote in favor of a measure by falsely claiming that as an assistant district attorney he knows this measure should be adopted by the voters. It is extremely troubling to our office that an elected member of the Board of Supervisors is falsely claiming to hold a position that he clearly does not hold, in order for him to advance a political position. Regardless of the merits of the political position Mr. Spitzer is advancing, it will be hard to imagine that it is not a violation of county ethical guidelines for a sitting elected member of the Board of Supervisors or any other County employee to engage in false and deceitful representations to advance a political position in his capacity as a County Supervisor or his/her County capacity. Ironically, if this measure had already passed, then this type of false impersonation would be exactly the type of conduct that would be a subject of complaint.

Finally aside from the ethical issues, the OCDA is concerned that the County may have financed, totally or partially, the distribution of this pre-recorded political message. Attached is an FPPC rule that mandates one "paid for" information which this call does not. Therefore, we are respectfully asking you for the following:

1. A confirmation as to whether or not any county funds were used in writing, recording or distributing the May 26, 2016, pre-recorded political phone message by Supervisor Spitzer;
2. The issuance of an express and clear retraction of the May 26, 2016, message to the extent it identified Mr. Spitzer as an assistant district attorney. This can only be accomplished by making sure that a new pre-recorded phone message by Mr. Spitzer is sent out to the same recipients of the May 26, 2016, message clearly indicating that the May 26, 2016, message falsely identified Mr. Spitzer as an assistant district attorney; and
3. The taking of tangible and concrete steps by the county to ensure that no further action is taken by Mr. Spitzer where he claims to be a member of the Orange County District Attorney's Office in addition to being a County Supervisor.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

  
Tony Rackauckas  
District Attorney

TR:vlb  
Attachments