

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18318. Collections. Executive Director's Authority for the Settlement of an Order for Monetary Penalties.

(a) The Executive Director has the authority to enter into a settlement agreement on behalf of the Commission in full satisfaction of an order for monetary penalties where all the following are met:

(1) The monetary penalty order is no longer subject to any means of judicial review.

(2) Three collection demand letters, each sent at a minimum of 30 day intervals, were sent by staff notifying the debtor of the debt owed and the further actions that may be taken in the Commission's collection process.

(3) Staff made reasonable collection efforts by:

(A) Seeking offsets from payments due to the debtor from the Franchise State Tax Board or other state departments, and

(B) If legally permissible, obtaining a court or court clerk's judgment against the debtor pursuant to Sections 91013.5 or 91013.7, and then using an appropriate judgment enforcement method pursuant to the Code of Civil Procedure, including filing real property or personal property liens, bank levies or wage garnishments against the debtor's assets.

(4) The Executive Director has determined the settlement is appropriate considering the following factors:

(A) The settlement amount exceeds the amount likely to be collected within a reasonable time period.

(B) The debtor's ability to satisfy the full debt or a greater amount of the debt within a reasonable time given the debtor's assets or income, or debtor's reasonable prospects of acquiring assets or income.

(C) The extent to which the debt owed includes interest accrued on the original penalty amount.

(D) The severity and type of violation for which the penalties were assessed.

(b) The Executive Director will report a settlement agreement to the Commission after its execution. That report shall be made at the next Commission meeting. The settlement agreement will include a brief description of staff's reasonable collection efforts and the factors that justified the settlement.

CREDITS

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 83116 and 91013.5, Government Code.

HISTORY

1. New section filed 11-27-2023; operative 12-27-2023 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2023, No. 48).