



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

To: Chair Ravel and Commissioners Casher, Eskovitz, Wasserman and Wynne
From: Zackery P. Morazzini, General Counsel
Subject: Monthly Report on Legal Division Activities
Date: August 6, 2013

A. OUTREACH AND TRAINING

None this period.

B. FINDINGS OF PROBABLE CAUSE

A finding of probable cause does not constitute a finding that a violation has actually occurred. The respondents are presumed to be innocent of any violation of the Act unless a violation is proved in a subsequent proceeding.

The following case was decided based on the papers submitted since the respondent did not request a probable cause conference.

In the Matter of Westside Republicans of Los Angeles and Gary Aminoff, Treasurer, FPPC No. 12/743. On June 6, 2013, probable cause was found to believe that Respondents Westside Republicans of Los Angeles and Gary Aminoff committed two violations of the Political Reform Act, as follows:

Count 1: As a county general purpose committee pursuant to Government Code Section 82013, subd. (a), and the committee's treasurer, Respondent Westside Republicans of Los Angeles and Gary Aminoff had a duty to file a semiannual statement with the Los Angeles County Registrar-Recorder by July 31, 2012, for the January 1, 2012, through June 30, 2012, reporting period. Respondents failed to file a semiannual statement with the Los Angeles County Registrar-Recorder by July 31, 2012, for the January 1, 2012,

through June 30, 2012, reporting period, in violation of Government Code section 84200, subd. (a).

Count 2: As a county general purpose committee pursuant to Government Code Section 82013, subd. (a), and the committee's treasurer, Respondent Westside Republicans of Los Angeles and Gary Aminoff had a duty to file a semiannual statement with the Los Angeles County Registrar-Recorder by January 31, 2013, for the July 1, 2012, through December 31, 2012, reporting period. Respondents failed to file a semiannual statement with the Los Angeles County Registrar-Recorder by January 31, 2013, for the July 1, 2012, through December 31, 2012, reporting period, in violation of Government Code section 84200, subd. (a).

In the Matter of Robert L. Griffith; and Committee To Elect Robert Griffith, FPPC No. 12/344. On June 6, 2013, probable cause was found to believe that Respondents Robert L. Griffith; and Committee To Elect Robert Griffith committed eleven violations of the Political Reform Act, as follows:

Count 1: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a semi-annual campaign statement for the reporting period of January 1 through June 30, 2009, by the July 31, 2009 due date, in violation of Government Code Section 84200, subdivision (a).

Count 2: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a pre-election campaign statement for the reporting period July 1 to September 19, 2009, by the September 24, 2009 due date, in violation of Government Code Sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

Count 3: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a pre-election campaign statement for the reporting period September 20 to October 17, 2009, by the October 22, 2009 due date, in violation of Government Code Sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

Count 4: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a semi-annual campaign statement for the reporting period of October 18 through December 31, 2009, by the February 1, 2010 due date, in violation of Government Code Section 84200, subdivision (a).

Count 5: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a semi-annual campaign statement for the reporting period of January 1 through June 30, 2010, by the August 2, 2010 due date, in violation of Government Code Section 84200, subdivision (a).

- Count 6: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a semi-annual campaign statement for the reporting period of July 1 through December 31, 2010, by the January 31, 2011 due date, in violation of Government Code Section 84200, subdivision (a).
- Count 7: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a semi-annual campaign statement for the reporting period of January 1 through June 30, 2011, by the August 1, 2011 due date, in violation of Government Code Section 84200, subdivision (a).
- Count 8: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a semi-annual campaign statement for the reporting period of July 1 through December 31, 2011, by the January 31, 2012 due date, in violation of Government Code Section 84200, subdivision (a).
- Count 9: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a semi-annual campaign statement for the reporting period of January 1 through June 30, 2012, by the July 31, 2012 due date, in violation of Government Code Section 84200, subdivision (a).
- Count 10: Respondents Robert L. Griffith and Committee To Elect Robert Griffith, failed to file a semi-annual campaign statement for the reporting period of July 1 through December 31, 2012, by the January 31, 2013 due date, in violation of Government Code Section 84200, subdivision (a).
- Count 11: Respondent Robert L. Griffith, as a Mountain View School District Governing Board Member, failed to file a 2011 annual statement of economic interests by the April 2, 2012 due date, in violation of Government Code Section 87300.

In the Matter of Samuel Moore, FPPC No. 12/354. On June 27, 2013, probable cause was found to believe that Respondent Samuel Moore committed three violations of the Political Reform Act, as follows:

- Count 1: Respondent Samuel Moore, as a Newcastle Elementary School District Board Member, failed to file a 2009 annual statement of economic interests by the April 1, 2010 deadline, in violation of Government Code Section 87300.
- Count 2: Respondent Samuel Moore, as a Newcastle Elementary School District Board Member, failed to file a 2010 annual statement of economic interests by the April 1, 2011 deadline, in violation of Government Code Section 87300.
- Count 3: Respondent Samuel Moore, as a Newcastle Elementary School District Board Member, failed to file a 2011 annual statement of economic interests by the April 1, 2012 deadline, in violation of Government Code Section 87300.

In the Matter of Jocelyn Woodard, FPPC No. 12/527. On June 27, 2013, probable cause was found to believe that Respondent Jocelyn Woodard committed one violation of the Political Reform Act, as follows:

Count 1: Respondent Jocelyn Woodard, as a Commissioner with the County of Los Angeles Commission on HIV, failed to file a 2011 annual statement of economic interests by the April 2, 2012 due date, in violation of Government Code Section 87300.

C. LEGAL ADVICE TOTALS

- **Email Requests for Advice:** In June and July, Legal Division attorneys responded to more than 76 email requests for legal advice.
- **Advice Letters:** From May 24, 2013 to July 30, 2013, the Legal Division received 39 advice letter requests and issued 34 advice letters.

D. ADVICE LETTER SUMMARIES

Campaign

Igor Tregub

A-13-068

The Act does not prohibit a candidate from raising campaign funds for the purpose of financing a legal defense to a libel action that arose in the 2012 election (based on a campaign email the candidate sent out in that election) and for paying any monetary damages that may be awarded in connection to the lawsuit.

Nayda Cantabrana

A-13-076

The Quintana for Bell City Council 2013 Committee is subject to several provisions of the Act if a supporter hosts a poker fundraiser at his or her home for the committee, including reporting each purchase of tickets as a contribution. Moreover, because the cost of the fundraiser is over \$500, the supporter must report the fair market rental value of the donated space and other costs associated with hosting the event. Further, the committee may not receive individual contributions or make individual expenditures of \$100 or more in cash. Awarding prizes to individual attendees is a permissible use of campaign funds but each award must be reported in accordance with Regulation 18421.7.

Conflict of Interest

Brooke E. Jimenez

A-13-054

The Act does not prohibit Community Facilities District Board Members from voting on whether to: (a) hire consultants to evaluate the feasibility of issuing bonds where some of the bond proceeds could be used to build schools in the district in which the Board Members own homes, (b) issue the bonds, or (c) refinance existing bonds. At this time, these decisions will not have a reasonably foreseeable material financial effect on the Board Members' real property.

Steve Vaus**A-13-056**

The Poway City Councilmember is prohibited from participating in a City Council decision regarding the re-zoning of a property on which he boards his horses because it is reasonably foreseeable that the decisions would have a material financial effect on his personal finances.

Steven A. Mecum**I-13-060**

The Act does not prohibit the Lindsay City Councilmember's wife's clients from utilizing the First Time Home Buyer Program ("FTHB") solely because of his elected position. But the advisee may be disqualified from making, participating in making, or using his position to influence any decisions regarding the FTHB including, but not limited to, decisions involving Self-Help Enterprises, the City's Loan Committee, or applications submitted by his wife's clients.

Mayor Rob Schroder**A-13-066**

The Mayor may participate in the Martinez City Council's consideration of the approval or denial of the Laurel Knolls project despite owning property in the area (more than 500 feet from the development) and having an interest in an Insurance brokerage in Walnut Creek because there are no facts that indicate his property will be materially financially affected by the governmental decision. Also, it is not reasonably foreseeable that the development will have a material financial effect on his insurance business because it is not foreseeable that the business will receive \$20,000 in additional revenue in a fiscal year.

Jim Griffith**A-13-072**

The Sunnyvale Vice Mayor may not participate in a city council decision regarding the proposed Raintree special development permit, rezone or general plan amendment, because he owns a condominium unit in a condominium complex whose southern boundary is within the 500-foot radius of the development .

Further, he may not participate in a city council decision regarding the general plan amendment for only the southern parcel of the Raintree Site even though the southern parcel does not fall within the 500-foot radius of Danbury Place III because this decision appears to be interlinked to the other Raintree Site decisions.

Finally, he may participate in the city council decision regarding the Sares Regis Site only if participating in that decision will not result in reopening or in any way affecting the decisions of Raintree and will not independently have a material financial effect on his interests.

Nick Kosla**A-13-074**

Planning commissioner will not violate the Act's conflict of interest provisions by representing his father-in-law in subdividing his property, as long as he appears in the same manner as any other member of the general public in the course of the agency's prescribed governmental function.

Patrick Meyering**A-13-078**

Assuming specified factors are satisfied, a Sunnyvale Councilmember may participate in a City Council implementation decision involving the award of a consultant contract even though he owns a residence located within 500 feet of the plan area at issue.

Jannie L. Quinn**A-13-079**

Mountain View City Councilmember may participate in and vote on the creation and adoption of the Precise Plan because his interest in real property will be affected by the governmental decision in substantially the same manner as the public generally.

Jannie L. Quinn**A-13-080**

Mountain View City Councilmember may not participate in the Precise Plan decisions as he has a long-term lease of property in the Precise Plan area on which he operates his business, and it is presumed his lease will be materially affected by the decision.

Steven L. Flower**I-13-089**

Planning commissioner, who owns property within 500 feet of city's old town specific plan and the Pacific Electric right of way, is presumed to have a conflict of interest in decisions that will affect properties within 500 of his residence. For decisions beyond that threshold, the planning commissioner must determine whether the decision will have a reasonably foreseeable material financial effect on his real property interest. This determination must be made on a decision-by-decision basis.

Robert Boco**A-13-092**

Sunnyvale Councilmember who owns real property within 500 feet of the area impacted by a governmental decision may not participate in a decision to impose a temporary moratorium on current development in the area being developed, nor may he participate in the specified City Council proceedings leading up to and including the adoption of the development plan and EIR, unless he can rebut the presumption of materiality imposed by Regulation 18705.2(a)(1). However, he may appear before the City Council as a member of the general public to represent his personal interests.

Gift Limits**Melissa Mikesell****A-13-070**

Payment of a fellow position to assist a state agency in official agency business by the advisee organization is not a gift under the Act because it does not confer a personal benefit on any agency official. Accordingly, the payment does not need to be reported under Regulation 18944.

Honoraria**William D. McMinn****I-13-064a**

Mr. Stainbrook is only prohibited from accepting any payment for giving talks and lectures that are not made in connection with the practice of a bona-fide business, trade, or profession. Under the facts presented, it appears that the payments Mr. Stainbrook

receives are in connection with a bona-fide business provided, however, that the predominant activity of the business is not speechmaking.

Maurilio Leon**I-13-090**

The Act does not prohibit Mr. Leon from serving as a District Director and also performing consulting services for his personal consulting business. Instead, the Act prohibits public officials from making, participating in making or using their positions to influence a government decision which will have a reasonably foreseeable material financial effect on their financial interests.

Revolving Door**Todd M. Foreman****I-13-063**

The Act's one-year ban prohibits an attorney at the California Department of Insurance leaving state service from making, for compensation, any formal or informal appearance, or making any oral or written communication, before his former agency for the purpose of influencing any administrative or legislative actions or any discretionary act involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. However, the ALJ exception in Section 87406 applies to all pre-hearing communications that occur after the filing of a Petition for Hearing in Prior Approval proceedings pursuant to Proposition 103. Therefore, despite the one-year ban, he may appear before the DOI after a Petition for Hearing has been filed in Prior Approval proceedings.

Timothy C. Johnson**A-13-068**

The Act's post-governmental employment provisions do not prohibit a former employee of Caltrans from conducting engineering tests and performing inspections as an employee of a contractor under a contract with Caltrans. The advisee will not violate the permanent ban because he will not be performing work with the intent to influence a judicial, quasi-judicial, or administrative action of his former employer and he will not violate the one-year ban because he will not be performing work for the purpose of influencing an administrative or legislative action of his former employee.

Paul Benedetto**I-13-073**

An undersecretary for the California Technology Agency is subject to the "one-year ban." Appearances and communications before state and local agencies/departments are only prohibited if they are before the undersecretary's "former" state agency. There are no information technology procurement restrictions as long as the procurement activity does not include making, for compensation, any formal or informal appearance, or making any oral or written communication, before the former agency for the purpose of influencing any administrative or legislative actions or any discretionary act involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchases of goods or property.

Mohammad Toutounchian**I-13-101**

The Act's one-year ban prohibits the advisee from appearing before or communicating with his former state employer on behalf of his new employer for the purpose of influencing any administrative or legislative action and any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. Accordingly, he is prohibited from appearing before or communicating with his former state employer on behalf of his new employer for the purpose of influencing any proceeding involving the amendment or revocation of any of the existing contracts he has identified until September 30, 2013.

To the extent that he did not participate as a state employee in proceedings involving the contracts he has identified in any way, the permanent ban does not apply.

SEI

Greg Shelton

A-13-075

Porterville City Councilmember has no reporting responsibilities under the Act in connection with his work on the Stock Car and International Motor Contest Association race car event. The potential "payments" would not be reportable on his SEI because the income would be from individuals who do not reside or work in the jurisdiction of Porterville, have not done business before Porterville within the past two years, and do not plan to do so in the future.