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

June 18, 2015

Ms. Gloria Negrete McLeod
Gloria Negrete McLeod Senate 2010
[redacted]

RE: **Warning Letter**
FPPC No. 15/294, Gloria Negrete McLeod, Gloria Negrete McLeod Senate 2010

Dear Ms. McLeod:

The Enforcement Division of the Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act") found in Government Code Section 81000, and following. As you may be aware, the Enforcement Division conducted a review of filings made by your candidate controlled committee ("Committee"). The Enforcement Division has decided to close this case with this warning letter.

The Enforcement Division has completed its investigation of the facts in this case. Specifically, we found that the Gloria Negrete McLeod Senate 2010 committee transferred $9,500 of its remaining funds to Gloria Negrete McLeod Supervisor 2014 on May 3, 2013. These funds were considered surplus at the time of the transfer, since you left state office on January 2, 2013.

The Act prohibits the use of a committee's "surplus" campaign funds for a candidate's future election. (Section 89519.) While the Act generally permits candidates for local offices to transfer funds between committees, candidates who leave an elected office must transfer their campaign funds for that election to a committee for a future election, if the candidate wishes to continue to use those funds for future election, prior to the 90th day after leaving that elected office. If the funds are not transferred by this time, they are considered "surplus funds" and may not be used for a future election.[1]

Subdivision (b) of Section 89519 states, "Surplus campaign funds shall be used only for the following purposes . . ." after which there are six numbered paragraphs listing the ways in

[1] Under the prior version of Section 89519, effective until July 1, 2014, funds became surplus "upon leaving any elected office."

which such funds may be spent. Subdivisions (b)(1) through (b)(6) of Section 89519 provide for the following permissible uses of surplus campaign funds:

> (1) The payment of outstanding campaign debts or elected officer's expenses.
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> (2) The repayment of contributions.
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> (3) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.
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> (4) Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. However, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined in Section 82048.3.
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> (5) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.
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> (6) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation which arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

The subdivision pertinent to this issue is subdivision (b)(5), containing language implicitly prohibiting the use of contributions to support or oppose a specific candidate for elective office in California. Commission staff has consistently advised that the language contained in Section 89519(b)(5) prohibits a candidate from using surplus campaign funds left over from one campaign to fund that same candidate's later campaign for another office in California. (*Leese* Advice Letter, No. A-90-061; *Spillane* Advice Letter, No. A-95-071.)

Your actions violated the Act because, upon leaving state office on January 2, 2013, the money remaining in the Senate 2010 committee became surplus funds and you lost your ability to use the funds for a future campaign. (Section 89519.) Because you have no prior violations of the Act and because you disposed of the surplus funds in a manner consistent with the requirements of Section 89519 after notification during the audit by the Enforcement Division, we are closing your case with this warning letter. The information in this matter will be retained

and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to $5,000 for each violation.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to $5,000 for each violation.

A warning letter is an Enforcement Division case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the Enforcement Division will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the Commission's website ten (10) days from the date of this letter.

Please feel free to contact me with any questions you may have regarding this letter.

Sincerely,

Zachary W. Norton
Commission Counsel
Enforcement Division