



FAIR POLITICAL PRACTICES COMMISSION

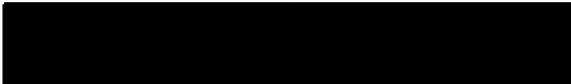
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

July 18, 2014

Robert M. Whalen
Bob Whalen for Assembly 2012



Donald Milligan, Treasurer
American Services



**RE: Warning Letter
FPPC No. 13/1328; Robert M. Whalen, Bob Whalen for Assembly 2012,
and Donald Milligan**

Dear Messrs. Whalen and Milligan:

The Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act (the “Act”)¹. This letter is in response to an audit performed by the Franchise Tax Board (“FTB”) of Bob Whalen for Assembly 2012, the results of which have been referred to this agency. The violations alleged include: (1) failing to timely file two preelection campaign statements on paper, (2) failing to file a required \$5,000 report, (3) failing to file a late contribution report, and (4) failing to timely disclose media and postage subvondor information. The Commission has decided to close this case with this warning letter.

The Commission has completed its investigation into the facts in this case. We determined that the violations listed by the FTB were accurately stated in the audit report provided to you. In addition, the Enforcement Division has found that you transferred \$1,939.86 from the Bob Whalen for Assembly 2012 committee to the Bob Whalen for City Council 2015 committee after these funds became surplus.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Under the Act, a candidate is required to file campaign statements disclosing contributions received and expenditures made. (Sections 84200 - 84213.) Specifically, Sections 84200.5, 84200.7 and 84200.8 require that candidate controlled committees file preelection campaign statements at designated times before an election on paper and, in some cases, electronically. In addition to these campaign statements, Section 84203 requires that any contribution received of \$1,000 or more during the last 16 days before an election, even if a cumulative amount, shall be reported within 24 hours on a late contribution report and any contribution of \$5,000 or more received outside 90 days before an election must be disclosed on a report filed within 10 days of receipt of the contribution. Section 84303 provides that no expenditure of \$500 or more shall be made by an agent or independent contractor, including but not limited to an advertising agency, on behalf of, or for the benefit of any candidate or committee, unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate or committee. Lastly, once an election has concluded, a defeated candidate must transfer remaining campaign funds to an account for another election prior to the end of the semi-annual reporting period following the election or those funds become surplus and cannot be used for a future election. (Section 89519.)

As stated above, your actions violated the Act because you filed two preelection campaign statements electronically but not on paper. Once notified by the Secretary of State's office of the lapse, you filed the statements and paid the fine issued. In addition, you missed the two reports listed and failed to report subvendor payments to a media outlet until after the election. However, you stated to FTB that you amended the campaign statement to report the missing information as soon as it was provided to you by the vendor and the contributions which triggered the reports were correctly reported on your semiannual campaign statement. As for the surplus funds, the funds were transferred to the city council campaign on January 21, 2013, and the end of the semi-annual reporting period was December 31, 2012, three weeks after they became surplus. Because each of these violations was remedied, was small in percentage to the entirety of your campaign, and you have already been fined for the paper statements, we have decided to close this matter with a warning letter.

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 could result in monetary penalties up to \$5,000 per violation.

A warning letter is a Commission 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 Commission 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.

If you have any questions regarding this matter, please feel free to contact me at
916-322-5796.

Sincerely



Galena West
Commission Counsel IV
Enforcement Division