



FAIR POLITICAL PRACTICES COMMISSION

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September 22, 2015

Coto for Senate 2012  
Joe Coto  
C/O Stephen Kaufman  
Kaufman Legal Group

[REDACTED]  
[REDACTED]

**Warning Letter Re: Coto for Senate 2012 and Joe Coto, FPPC No. 14/102**

Dear Mr. Kaufman:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").<sup>1</sup> This letter is in response to a referral the Enforcement Division received from the Franchise Tax Board's ("FTB") Political Reform Audit Program resulting from an audit of your client, Coto for Senate 2012 (the "Senate Committee"). While the FTB audit found that the Senate Committee largely complied with the Act's campaign reporting provisions, it included one finding that it deemed material. The material finding concerned the Senate Committee's attribution of contributions it received from the candidate's prior campaign committee, Coto for Assembly 2008 (the "Assembly Committee"). A portion of the contributions that were transferred from the Assembly Committee to the Senate Committee were attributed to contributors who also contributed directly to the Senate Committee so that each of those contributors' cumulative contributions exceeded the contribution limit.

The Act permits a candidate for elective state office to transfer campaign contributions from one of the candidate's controlled committees to another.<sup>2</sup> A candidate controlled committee that receives funds from the candidate's prior controlled committee must attribute those funds to

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

<sup>2</sup> Section 85306, subd. (a).

specific contributors of the prior committee for purposes of contribution limits.<sup>3</sup> Those attributed contributions are cumulated with any other contributions the contributor makes to the committee and the total amount of contributions from the contributor are considered in determining whether the contributions exceeded applicable contribution limits.<sup>4</sup> In 2012, the limit on contributions to candidates for state legislature was \$3,900 per election, and \$7,800 for the primary and general election combined.<sup>5</sup>

The Enforcement Division found that four of the contributors to the Assembly Committee whose contributions were attributed to the Senate Committee also contributed separately to the Senate Committee so that each of those contributors' cumulative contributions exceeded the contribution limit in violation of Section 85301, subdivision (a). Specifically, BNSF Railway Company's contributions exceeded the limit by \$3,600; Collateral Promotion Trustee Account's contributions exceeded the limit by \$100; Comcast's contributions exceeded the limit by \$1,500; and Pacific Life's contributions exceeded the contribution limit by \$200. In total, those four contributors exceeded the contribution limit by \$5,400. For the entire primary and general election campaigns, the Senate Committee received \$933,792 in contributions. So the dollar amount of those contributions over the limit represented approximately 0.58% of the total dollar amount of contributions received by the Senate Committee.

The Committee terminated in July 2015. When it did it had outstanding loans totaling approximately \$55,500 owed to Mr. Coto and his wife that were forgiven, as well as unpaid accrued expenses owed to vendors totaling approximately \$49,300.

Despite the violations for receiving contributions over the limit, the Enforcement Division has determined that further enforcement action is not warranted. The total dollar amount of the contributions that exceeded the limit was a miniscule percentage of the total dollar amount of the Senate Committee's contributions. The Enforcement Division found no evidence that the Senate Committee intended to exceed the contribution limit but rather that it made accounting mistakes when attributing the contributions from the Assembly Committee to the Senate Committee. Further, the Committee has terminated and except for the four contributions discussed above, the FTB audit revealed no other material violations of the Act by the Senate Committee.

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.

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<sup>3</sup> Regulation 18536.

<sup>4</sup> Regulation 18536, subd. (b).

<sup>5</sup> Section 85301, subd. (a) and Regulation 18545, subd. (a)(1).

A warning letter is an Enforcement Division case resolution without administrative prosecution or fine. But the warning letter resolution does not provide your client with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If your client wishes to avail itself of these proceedings by requesting that its 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.

If you need forms or a manual, or guidance regarding your obligations, please visit our website at [www.fppc.ca.gov](http://www.fppc.ca.gov). Please feel free to contact me at [REDACTED] with any questions you may have regarding this letter.

Sincerely,

[REDACTED]

Dave Bainbridge  
Senior Commission Counsel  
Enforcement Division

cc: Franchise Tax Board