



FAIR POLITICAL PRACTICES COMMISSION

128 E Street • Suite 670 • Sacramento, CA 95814-1129

916/322-5660 • Fax 916/322-0386

November 5, 2012

Fred Garcia
Fred Garcia for Sheriff 2010

REDACTED

Warning Letter Re: FPPC No. 12/426, Fred Garcia

Dear Mr. Garcia:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"), found in Government Code section 81000, et seq. This letter comes as the result of an audit by the Franchise Tax Board ("FTB") that found you violated the recordkeeping provision of the Act while running for Monterey County Sheriff.

The FPPC has completed its investigation of the facts in this case. The FPPC found that you ran for Sheriff of Monterey County in 2010 but did not receive enough votes in the June Primary Election to qualify for the runoff in the General Election. After the election, FTB conducted an audit of your campaign. The audit revealed that you failed to maintain required records, including, contributor checks, duplicative deposit slips, contributor valuation letters, contributor lists, canceled checks, receipts or invoices, and a check register. You told the FTB auditor that you were unaware of your duty to maintain these records and that you had destroyed the records after the election.

Section 84104 places a duty on candidates to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements and to establish that campaign statements were properly filed. Regulation §18401 details what documents a candidate must retain. Generally, for any contributions received or expenditures made, the candidate must retain source documents sufficient to show continuous computation of campaign account balances. Examples of such documents include copies of checks, check registers, deposit slips, etc. Regulation §18401, subdivision (b)(2) provides that candidates for local offices shall retain the required records for four years from the date of the election.

You violated the Act by failing to maintain adequate records as described above to establish that your campaign statements were properly filed. Due to your failure to maintain these records, FTB was unable to conduct a complete audit of your campaign to ensure compliance with the Act.

Despite your violation of the Act, mitigating factors exist such that the FPPC has decided to issue you a warning letter rather than impose a fine. You provided some records but not all of the records required by law and necessary for FTB to conduct an audit. Also, your violation appears to be unintentional and the result of your unfamiliarity with the Act. There is no evidence of intent to deceive the public and you have fully cooperated with the FPPC's investigation. Further, you do not have a prior history of violating the Act and you did not win the election.

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 FPPC case resolution without administrative prosecution or fine. 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 Fair Political Practices 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 FPPC will rescind this warning letter and proceed with administrative prosecution. If we do not receive such notification, this warning letter will be posted on the FPPC's website ten (10) days from the date of this letter.

If you need forms or a manual, or guidance regarding your obligations, please call the Commission's Toll-Free Advice Line at 1-866-275-3772 or visit our website at www.fppc.ca.gov.

Please feel free to contact me at (916) 323-6302 with any questions you may have regarding this letter.

Sincerely,

REDACTED

Dave Bainbridge
Commission Counsel
Enforcement Division