



# EXECUTIVE STAFF REPORTS

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*June 17, 2021 Commission Hearing*

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# I. ENFORCEMENT DIVISION

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STAFF: ANGELA BRERETON, CHIEF OF ENFORCEMENT

## A. Overview

During the period of May 1, 2021 through May 31, 2021 the Enforcement Division received 73 complaints, opened 5 for investigation, and rejected 41. The Enforcement Division received 82 referrals during this time. The Enforcement Division closed a total of 43 cases including:

- 21 warning letters – advertisement violations (2), campaign violations (3), conflict of interest code violations (1), and statement of economic interests violations (15);
- 14 no action closure letters alleging – advertisement violations (1), campaign violations (9), and statement of economic interests violations (4);
- 5 approved stipulations from the April Commission meeting;
- 1 approved default from the November 2020 Commission meeting;
- 1 advisory letter for a conflict of interest violation; and
- 1 committee was administratively terminated.

The Division had 1,440 cases in various stages of resolution at the time of the May Monthly Report and currently has approximately 1,464 cases in various stages of resolution, including the 12 cases before the Commission as listed in the June Agenda.

## B. Annual Statistics

On the next page, you will find a chart that details the annual statistics for enforcement complaints, referrals and cases. This chart includes the data from 2020, where Enforcement had a highly efficient and effective year, receiving over 2,900 complaints and referrals and closing 1,117 cases with violations found. The information in the chart has been gathered from public reports, information from the defunct and inactive database, and data that has been converted into current form, so the numbers are close estimates in some instances.

	<b>Year</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
1	Complaints Received	1,180	564	1,352	744	1,390
2	Referrals Received	350	1,616	1,529	1,950	1,518
3	Total Complaint and Referrals Received	1,530	2,180	2,881	2,694	2,908
4	Cases opened	1,315	1,480	1,561	1,820	1,155
5	Cases closed <sup>3</sup>	1,803	1,477	1,243	1,465	1,526
6	Cases with resolutions approved by the Commission <sup>1</sup>	311	340	235	343	278
	a Streamline cases approved by Commission	234	262	173	263	194
	b Mainline cases approved by Commission	70	66	56	73	77
	c Default cases approved by Commission	7	12	6	7	7
7	Total fines imposed by the Commission	\$894,257	\$1,126,933	\$499,606	\$797,384	\$1,940,107
8	Warning letters issued	489	505	554	584	777
9	Administrative terminations	668	297	177	104	62
10	Cases closed with violations found <sup>2</sup>	1,468	1,142	966	1,031	1,117
1	Advisory letters issued	14	17	20	9	7
12	No action closure letters	321	318	252	423	402

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<sup>1</sup> Total for lines 6a, 6b, and 6c.

<sup>2</sup> Total for lines 6, 8, and 9.

<sup>3</sup> Total cases closed includes Commission approved cases from the previous year and Commission approved administrative judgements. It does not include Commission approved cases not yet closed.

### C. AdWatch and Referrals Information

The following information is in response to questions asked during the Enforcement Presentation at the April Commission Meeting.

#### AdWatch

Below are the number of AdWatch submissions received during 2018, 2019, 2020 and 2021 (as of May 31, 2021):

Year	Number of AdWatch submissions received
2018	162
2019	0 (AdWatch was not live in 2019)
2020	183 (41 Primary, 142 General)
2021	8

2020 was the first year for which we had AdWatch live for both a primary and a general election.

#### Referrals

In 2020, we received 1,517 referrals. This number includes referrals from other agencies and from within our agency, as follows:

- 1,098 external referrals (local filing officers, Secretary of State)
- 419 internal referrals

### D. Unexecuted Streamline Stipulations

Streamline penalty stipulations are approved by the Chief of Enforcement and reported to the Commission for discussion only before they are executed. The following streamline stipulations are presented for that purpose. After the close of the hearing, the Chief of Enforcement may execute all or any of the streamline penalty stipulations, at her discretion per Regulation 18360.2.

Since the last Monthly Report, the Enforcement Chief has not used discretion to increase the penalties for Tier Two advertising violations resulting in public confusion, under Regulation 18360.3(d)(7)(B)(i)(b), or to increase the penalties for Tier Two violations involving the same candidate, committee, or principal officer who has paid a Tier One penalty to the Commission

or received a Warning Letter from the Commission for the same type of violation occurring within the last five years, based on the resulting public harm.

The Enforcement Chief used discretion under Regulation 18360.2 to exclude violations in one streamline case presented with this report, 18/248 Jeff Hewitt for Assembly District 42 2016, Jeff Hewitt, David Castaldo, and Wendy Hewitt (The total penalty exceeds the amount that would be paid in a Mainline Stipulation).

### **Campaign Bank Account and Campaign Late Filer/Reporter**

**In the Matter of Janice Kamenir-Reznik for Senate 2016, Janice Kamenir-Reznik, and Jane Leiderman; FPPC No. 18/778.** Staff: Ruth Yang, Senior Commission Counsel. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. All parties entered into a tolling agreement with the Enforcement Division regarding the applicable statutes of limitations, which was effective as of May 14, 2021. Janice Kamenir-Reznik was an unsuccessful candidate for State Senate, District 27, in the June 7, 2016 Primary Election. Janice Kamenir-Reznik for Senate 2016 was Kamenir-Reznik's candidate-controlled committee. Jane Leiderman was the Committee's treasurer. The Committee, Kamenir-Reznik, and Leiderman failed to process campaign expenditures through the Committee's designated campaign bank account, in violation of Government Code Section 85201, subdivision (e) (1 count); failed to timely file two 24-hour reports, in violation of Government Code Section 84203 (1 count); and failed to timely report a monetary contribution on a 24-hour report, in violation of Government Code Section 84211 (1 count). **Total Penalty: \$1,776 (Tier One & Two).**

### **Behested Payments**

**In the Matter of Shirley N. Weber; FPPC No. 21/333.** Staff: Angela Brereton, Chief of Enforcement and Tara Stock, Intake Manager. Shirley N. Weber, former Assembly Member and current Secretary of State, failed to timely file a Behested Payment Report, in violation of Government Code Section 84224 (1 count). **Total Penalty: \$600 (Tier Two).**

### **Campaign Late Filer**

**In the Matter of Jeff Hewitt for Assembly District 42 2016, Jeff Hewitt, David Castaldo, and Wendy Hewitt; FPPC No. 18/248.** Staff: Theresa Gilbertson, Senior Commission Counsel. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. The Respondents were represented by Ashlee Titus of Bell McAndrews & Hiltachk, LLP. Jeff Hewitt was an unsuccessful candidate for Assembly District 42 in the June 7, 2016 Primary Election. Jeff Hewitt for Assembly District 42 2016 was Hewitt's candidate-controlled committee. David Castalado and Wendy Hewitt were the Committee's treasurers. The Committee, Hewitt, Castalado, and Hewitt failed to timely file three semiannual campaign statements, in violation of Government Code Section 84200 (3 counts); failed to timely file two pre-election campaign statements, in violation of Government Code Section 84200.5 (2 counts);

and failed to timely file five 24-hour reports, in violation of Government Code 84203 (5 counts). **Total Penalty: \$4,923 (Tier Two).**

**In the Matter of Angela Storey for Judge 2018, Angela Storey, and Christina Borsum; FPPC No. 19/534.** Staff: Theresa Gilbertson, Senior Commission Counsel. Angela Storey was an unsuccessful judicial candidate for Superior Court of Santa Clara County during the June 5, 2018 Primary Election. Angela Storey for Judge 2018 was Storey's candidate-controlled committee. Christina Borsum was the Committee's treasurer. The Committee, Storey, and Borsum failed to timely file three semi-annual campaign statements, in violation of Government Code Section 84200 (3 counts). **Total Penalty: \$1,728 (Tier Two).**

**In the Matter of LPAC and Hilary Rosen; FPPC No. 21/338.** Staff: Angela Brereton, Chief of Enforcement and Tara Stock, Intake Manager. The respondents were represented by Jesse Mainardi of Mainardi Law. LPAC is a state general purpose committee. Hilary Rosen is the Committee's treasurer. The Committee and Rosen failed to timely file a 24-hour report, in violation of Government Code Section 84203 (1 count). **Total Penalty: \$550 (Tier Two).**

**In the Matter of Committee to Elect Mary Ann Lyons Supervisor District 4 2018 and Mary Ann Lyons; FPPC No. 18/385.** Staff: Jenna C. Rinehart, Commission Counsel. Mary Ann Lyons was an unsuccessful candidate for Humboldt County Supervisor in the June 5, 2018 Primary Election. Committee to Elect Mary Ann Lyons Supervisor District 4 2018 was Lyons' candidate-controlled committee. The Committee and Lyons failed to timely file a preelection campaign statement and a semi-annual campaign statement, in violation of Government Code Sections 84200 and 84200.5 (2 counts). **Total Penalty: \$433 (Tier One).**

### **Campaign Late Reporter**

**In the Matter of Mulheren for Supervisor 2020, Maureen Mulheren, and Kasie Gray; FPPC No. 20/568.** Staff: Angela Brereton, Chief of Enforcement and Tara Stock, Intake Manager. Maureen Mulheren was a successful candidate for Mendocino County Board of Supervisors in the November 3, 2020 General Election. Mulheren for Supervisor 2020 is Mulheren's candidate-controlled committee. Kasie Gray is the Committee's treasurer. The Committee, Mulheren, and Gray failed to timely itemize expenditures on a semiannual campaign statement, in violation of Government Code Section 84211 (1 count). **Total Penalty: \$254 (Tier One).**

### **Statement of Economic Interests Late Filer**

**In the Matter of Anne Allaire; FPPC No. 20/1064.** Staff: Angela Brereton, Chief of Enforcement and Ginny Lambing, Political Reform Consultant. Anne Allaire, a Governing Board Member for Culver City Unified School District, failed to timely file an Officeholder/Candidate Campaign Statement-Short Form for 2020, in violation of Government Code Section 84206 (1 count). **Total Penalty: \$200 (Tier One).**

**In the Matter of Aaron Meadows; FPPC No. 21/257.** Staff: Angela Brereton, Chief of Enforcement and Ginny Lambing, Political Reform Consultant. Aaron Meadows, a member of the Oakley City Council, failed to timely file an Assuming Office Statement of Economic Interests, in violation of Government Code Section 87202 (1 count). **Total Penalty: \$200 (Tier One).**

## II. LEGAL DIVISION

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STAFF: DAVE BAINBRIDGE, GENERAL COUNSEL

### A. Pending Litigation

***California State Association of Counties and California School Boards Association v. FPPC***  
County of Los Angeles Superior Court, Central District  
Case No. BS174653

On September 11, 2018, petitioners served a first amended petition for writ of mandate and complaint for declaratory relief. Petitioners allege that Regulations 18420.1 and 18901.1 are invalid as a matter of law, that the Commission has exceeded its jurisdiction in adopting these Regulations, and that the Regulations are unenforceable.

On March 29, 2019, the Commission's Motion for Judgment on the Pleadings was granted with leave to amend. The court vacated all hearing dates and set a new trial setting conference. Plaintiffs timely filed a second amended complaint on June 27, 2019.

The Commission filed a demurrer and the hearing occurred on November 22, 2019. In its ruling, the court: (1) sustained the demurrer to the first cause of action without leave to amend; (2) sustained the demurrer with leave to amend on plaintiff CSBA's standing on all cause of action and plaintiff CSAC's standing on all causes of actions challenging Regulation 18901.1; and (3) overruled the remaining grounds for demurrer.

Petitioners filed a third amended complaint, and the Commission filed an answer. The parties submitted pretrial briefs and after hearing on December 4, 2020, the court issued an order denying the writ. Notice of entry of the court's judgment was served on January 12, 2021.

Petitioners filed a timely notice of appeal on March 10, 2021. Updates on the various appellate filing deadlines will be provided when dates are set.

***Mat Wahlstrom v. California Fair Political Practices Commission and Steven J. Kaufman***  
San Diego County Superior Court, Central Division  
Case No. 37-2020-00030654-CU-WM-CTL

Petitioner filed a petition for writ of mandate on August 31, 2020. The petition seeks to set aside a streamline stipulation, decision and order against Todd Gloria adopted by the Commission in November 2019. The Attorney General is representing the Commission. The Commission timely filed an answer to the complaint. Petitioner filed an amended petition on May 18, 2021. The Commission will file a timely response to the amended petition.



## B. Outreach and Training

### *Scheduled Webinars*

- June 15th, the FPPC is hosting a Candidate/Treasurer webinar.
- June 18th, the FPPC is hosting a Statement of Economic Interest Filing Officer webinar requested by Lake County.
- June 21st, the FPPC is hosting a Candidate/Treasurer webinar for the San Mateo Democratic Club.
- June 23rd, the FPPC is hosting a Campaign Filing Officer webinar.

### *Video Tutorials*

- Commission video tutorials were accessed a total of 267 times in May. Form 700 videos were accessed 135 times, the Candidate/Treasurer video was accessed 71 times, and the filing officer videos were accessed 61 times.

## C. Advice

The May 28, 2021, Advice Letter Report is available at [Advice Letter Report - May 2021 \(ca.gov\)](#).

In May, the Legal Division responded to the following requests for advice:

- **Education Program:** The Education Program responded to 265 requests for technical assistance via phone.
- **Requests for Advice:** The Email Advice and Conflict of Interest Code Program and Legal Division attorneys collectively responded to more than 468 email and telephone requests for advice, 62 of which were not responded to within 24 hours.
- **Advice Letters:** The Legal Division received 11 advice letter requests under the Political Reform Act and completed 11.
- **Section 1090 Letters:** The Legal Division received six advice letter request concerning Section 1090 and completed six. This year to date, we have received 27 advice requests regarding Section 1090.

## D. Miscellaneous Decisions

None to report.

## **E. Potential Upcoming Regulations**

*July 15<sup>th</sup>, 2021*

- Behested Payment Reporting. (Regulations 18204 and 18215.3.) Regulatory additions and amendments to improve the efficiency and transparency of behested payment reporting, including providing for reporting of good faith estimates of payments in certain circumstances, and clarifying rules for disclosure of payments made in response to third party fundraising solicitations. (Prenotice.)
- Disclose Act. (Regulations 18421.5, 18435.5, 18450.1, and 18450.11.) Various regulatory additions and amendments to interpret and clarify provisions of the Disclose Act including disclosures on advertisements in multiple languages, disclosures on electronic slate mailers, disclosures on various forms of social media, and paid spokesperson disclosure. (Adoption.)

*August 19<sup>th</sup>, 2021*

- Lobbyist Recordkeeping. (Regulation 18612.) Update and enhance recordkeeping requirements for lobbyists and lobbying entities. (Prenotice.)

*September 16<sup>th</sup>, 2021*

- Behested Payment Reporting. (Regulations 18204 and 18215.3.) Regulatory additions and amendments to improve the efficiency and transparency of behested payment reporting, including providing for reporting of good faith estimates of payments in certain circumstances, and clarifying rules for disclosure of payments made in response to third party fundraising solicitations. (Adoption.)

## **F. Conflict of Interest Codes**

### **Adoptions and Amendments**

#### *State Agency Conflict of Interest Codes*

- Department of Community Services and Development
- Secretary of State

#### *Multi-County Agency Conflict of Interest Codes*

- Beaumont Cherry Valley Water District
- Employment Risk Management Authority
- Truckee Sanitary District

## Exemptions

- None to Report

## Extensions

- California Climate Action Team
- California-Mexico Border Relations Council
- Independent Emissions Market Advisory Committee
- Regional Solid Waste Working Group

## G. Probable Cause Hearings

*Please note, a finding of probable cause does not constitute a finding that a violation has occurred. The respondents are presumed to be innocent of any violation of the Act unless a violation is proven in a subsequent proceeding.*

*The following matters were decided based solely on the papers. The respondents did not request a probable cause hearing.*

- 1. *In the Matter of Minerva R. Martinez (Pineda), Case No. 17/943.*** On June 1, 2021, probable cause was found to believe Respondent committed the following violations of the Act:

Count 1: Pineda failed to timely report an Oakland Raiders ticket valued at \$140 from Townsend on her 2015 Annual SEI by the April 1, 2016 reporting deadline, in violation of Government Code Section 87207.

Count 2: Pineda accepted Oakland Raiders tickets totaling approximately \$560 from Townsend Public Affairs in 2015, exceeding the gift limit by \$100 on December 24, 2015, in violation of Government Code Section 89503.

Count 3: On February 24, 2016, Pineda made a governmental decision on the Orange Cove City Council involving a contract between Townsend and the City of Orange Cove after receiving and utilizing Oakland Raiders tickets from Townsend valued in excess of \$460, in violation of Government Code Section 87100.

Count 4: Pineda failed to timely file her 2017 Annual SEI for her position on the SW Commission by April 1, 2018, in violation of Government Code Section 87300.

Count 5: Pineda failed to timely file her Leaving Office SEI for her position on the SW Commission within 30 days of leaving office on or around August 10, 2018, in violation of Government Code Section 87300.

## **III. ADMINISTRATION & TECHNOLOGY DIVISION**

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STAFF: LORESSA HON, CHIEF OF ADMINISTRATION

### **New Employee Report**

#### **Administration Division (SEI Unit)**

Molly Renghhup, Staff Services Analyst

### **Statement of Economic Interest (Form 700)**

As of June 2, 2021, there were 983 Form 700 non-filers of the 2020/2021 Annual Form 700 filing. Statement of Economic Interest (SEI) Unit staff will be sending out non-filer letters by July 1, 2021 for the 2020/2021 annual filing.

The SEI unit processed 23,820 filed statements during 2020/2021 filing season, which includes annual filing, assuming/leaving office and candidate statements. Out of the 23,820 statements, 15,893 filed electronically (67%) through the FPPC and local e-filing system.