STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

June 28, 2023

Eric Frame
Eric Frame for State Senate 2018
Gary Blenner (campaign treasurer)
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Warning Letter re: FPPC Case No. 2020-00613; Eric Frame; Eric Frame for State Senate 2018; Gary Blenner

Gentlepersons:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act.[1] This case was opened in response to an audit performed by the Political Reform Audit Program of the Franchise Tax Board ("FTB")—with respect to the controlled committee of Eric Frame known as Eric Frame for State Senate 2018. The period covered by the audit was January 1, 2017 through December 31, 2018. As discussed in more detail below, this case is being closed with a warning letter.

At the core of the Act's campaign reporting system is the requirement that committees must file campaign statements and reports for certain reporting periods and by certain deadlines.[2] These filings must contain certain, required information regarding committee receipts and expenditures.[3]

In 2018, a candidate for the California Legislature was required to file one copy of each statement with the elections official of the candidate's county of domicile—and the original paper version of each statement was required to be filed with the California Secretary of State (SOS).[4] Once the candidate received contributions totaling $25,000 or more—or made expenditures totaling $25,000 or more—each statement was required to be filed by online or electronic means with SOS, in addition to the noted paper filing requirements.[5]

The Act imposes important safeguards that are meant to create a paper trail to aid the audit and enforcement process. For example, each candidate, treasurer, and elected officer must maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the Act's campaign disclosure provisions. This requirement includes a duty to maintain detailed information and original source documentation for all contributions and expenditures. Generally, records must be

[1] The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 81000 through 91014. The regulations of the Fair Political Practices Commission are contained in California Code of Regulations, title 2, sections 18104 through 18998. Unless otherwise noted, all statutory and regulatory references are to these sources—as they were in effect during the time of the violations in this case (2018).

[2] Sections 84200, *et seq.*

[3] Section 84211.

[4] Section 84215.

[5] Sections 84215 and 84605.

maintained for a period of four years following the date that the campaign statement to which they relate is filed, or two years after the adoption of an audit, whichever period is shorter. Required records include receipts and invoices in support of expenditures.[6]

Additionally, the Act provides that no committee expenditure of $100 or more may be made in cash.[7]

In this case, for the reporting periods in 2018 ending on September 22, October 20, and December 31, required receipts/invoices were not maintained for committee expenditures and withdrawals totaling approximately $34,485—in violation of Section 84104 and Regulation 18401.

The FTB audit report noted that in October and November 2018, campaign funds totaling approximately $27,152 were withdrawn in amounts greater than $100 per withdrawal. These were cash withdrawals (of $100 or more) in violation of Section 84300, subdivision (b).

Also, the FTB audit report noted:

> The Form 460 Preelection Statement for the period ending September 22, 2018, filed with the Secretary of State (SOS) on September 27, 2018, did not include Schedule A Monetary Contributions Received and Schedule E Payments Made. Receipts and expenditures totaled $6,643 and $8,274, respectively; however receipts and expenditures reported on the Summary Page were understated by $607 and $479, respectively.
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> The Form 460 Preelection Statement for the period ending October 20, 2018, was not filed with the SOS in paper format. Receipts and expenditures totaled $5,683 and $2,802, respectively. The Form 460 Preelection Statement was timely filed electronically; however reported receipts were understated by $1,051 and reported expenditures were overstated by $1,335.
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> The Form 460 Semi-annual Statement for the period ending December 31, 2018, was not filed with the SOS in paper format. Receipts and expenditures totaled $121,981 and $125,079, respectively. The Form 460 Semi-annual Statement was filed electronically on January 31, 2019; however, no activity was reported. [Schedules were attached to the filing, but these falsely reported that there was zero activity during the period.]

Additionally, the FTB audit report noted that monetary contributions received (in amounts of $100 or more) and expenditures made (in amounts of $100 or more)—totaling $106,272 and $94,692, respectively—were not itemized, as required, on Form 460 campaign statements.

By failing to file campaign statements in paper format with SOS, as noted above, you violated Section 84215. By failing to properly and accurately report/itemize campaign receipts and expenditures, you violated Section 84211.

[6] See Section 84104 and Regulation 18401.

[7] Section 84300, subdivision (b).

Regarding the unlawful cash withdrawals of $100 or more, the audit report notes: "An invoice notates that $1,500 . . . was a partial payment for printed materials. Spreadsheets notated $25,864 in cash was paid to campaign workers."

Regarding the failure to keep required receipts and invoices, the audit report notes that bank statements and canceled checks were maintained.

Regarding the failure to report activity for the period ending December 31, 2018, the audit report notes that "[c]ontributions totaling $76,000 were reported as received during this period on Form 497 Contribution Reports," so there was at least some disclosure for the public.

Additionally, the FTB audit report contained the following information:

> Mr. Blenner stated that his responsibilities were limited to filing the required reports and statements. He further stated that he filed the reports and statements based on the information he received from the candidate, who retained all the documents. Mr. Blenner explained that the Committee received an incredible amount of contributions late in the campaign, which was overwhelming. He added that he and the candidate, always had the best of intentions, and the mistakes were due to inexperience. Mr. Blenner also stated that his mother became seriously ill and passed away during this time.

Finally, in further mitigation, Eric Frame lost the general election in November 2018 and does not have a history of prior, similar violations. Based on the foregoing, and in accordance with the Enforcement Division Policy Directives formally adopted by the Commission on January 26, 2023, which require the Enforcement Division to take all appropriate actions within its discretion to decrease the Division's annual carryover caseload, the Enforcement Division is closing this case with this warning letter.[8] Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.[9] This resolution may not be used as a comparable case for other enforcement matters.[10]

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. This warning letter may be considered in any future enforcement actions.

A warning letter is an Enforcement Division case resolution without administrative prosecution or fine. The Commission has adopted Regulation 18360.1 to authorize the Enforcement Division to issue warning letters to conclude cases in specified circumstances. 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

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[8] https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf

[9] Regulations 18360.1 and 18360.3.

[10] See Regulation 18361.5, subdivision (e)(3).

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.

If you need guidance regarding your obligations in the future, please visit our website at www.fppc.ca.gov/advice.html or call the Commission's Toll-Free Advice Line at 1-866-ASK-FPPC (1-866-275-3772).

Thank you for your attention to this matter. Please do not hesitate to call if you have any questions.

Very truly yours,

Neal P. Bucknell

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