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

August 4, 2023

Cathleen Galgiani, individually and
o/b/o Galgiani for State Board of Equalization 2018
[redacted]

Galgiani for State Board of Equalization 2018
[redacted]

David Gould, Treasurer
[redacted]

Warning Letter Re: FPPC No. 2020-00585; Cathleen Galgiani, Galgiani for State Board of Equalization 2018, David Gould

Dear Respondents:

The Enforcement Division of the Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act").[1] The Enforcement Division received an Audit Report dated July 28, 2023, from the Audit Division of the Commission with respect to Galgiani for State Board of Equalization 2018 (the "Committee"). The period covered by the audit was January 1, 2017 through December 31, 2018. After conducting our own review, we are closing this case with this warning letter.

One purpose of the Political Reform Act is to minimize the potentially corrupting influence, and the appearance of corruption, caused by large campaign contributions. For this reason, the Act includes campaign contribution limits.[2] For 2018 elections, the contribution limit for candidates for the Board of Equalization was $7,300 per election.[3]

Another purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully

[1] 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 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.
[2] See Sections 85301, et seq.
[3] Regulation 18545, subd. (a)(2) [2018].

informed and improper practices are inhibited.[4] Along these lines, the Act includes a comprehensive campaign reporting system.[5]

The Act permits a candidate to accept a campaign contribution after the date of the election only to the extent that the contribution does not exceed the net debts outstanding from the election.[6] A candidate may accept contributions after the date of the election only up to the amount of net debts outstanding from the election.[7] A candidate may only use a contribution accepted after the election pursuant to Section 85316, subdivision (a), for payment of net debts outstanding from the election, and the candidate may only use the funds on hand and owed to the committee for payment of net debts outstanding from the election.[8]

Net debts outstanding include only the following: an amount necessary to cover the cost of raising funds; costs related to complying with the post-election requirements and other necessary administrative costs related to winding down the campaign, including office space rental, staff salaries, and office supplies; Legal fees and expenses incurred directly in connection with monitoring the count of absentee or provisional ballots for the election, or with a ballot recount for the election; and the total amount of unpaid debts, loans and accrued expenditures incurred with respect to the election, less the sum of cash on hand and the total amount owed to the committee.[9]

A candidate for elective state office may raise contributions for a general election prior to the primary election, for the same elective state office if the candidate sets aside these contributions and uses these contributions for the general election.[10] If the candidate is defeated in the primary election, the general election funds must be refunded to the contributors on a pro rata basis less certain allowable expenses associated with the raising and administration of the contributions.[11]

A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state office of the same candidate.[12] Contributions transferred shall be attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor may not exceed the applicable contribution limits.[13] A committee receiving transferred funds must disclose on its campaign statements each attributed contribution of $100

[4] Section 81002, subd. (a).
[5] Sections 84200, et seq.
[6] Section 85316, subd. (a).
[7] Regulation §18531.61, subd. (c).
[8] Regulation §18531.61, subd. (d).
[9] Regulation §18531.61, subd. (b)(3).
[10] Section 85318.
[11] *Ibid.*
[12] Section 85306, subd. (a).
[13] *Ibid.*

or more, providing the same information required when the contribution was originally reported, including the original date the contribution was received.[14]

In this case, the Audit Report found that the Committee substantially complied with the Act's disclosure and recordkeeping provisions of the Act and related rules and regulations of the Commission, except for the following:[15]

- Contributions totaling $28,702 were received after the 2018 Primary Election when the Committee had no net debt.
- Expenditures were made after the Primary Election to individuals/consultants totaling $23,000 that were discretionary expenses when the Committee had no net debt after the election. The payments were made with funds received after the date of the election that were in excess of the net debt of the Committee after the election.
- Contributions received from 8 contributors exceeded the contribution limit by a total of $11,548 for the Primary Election. Reported contributions received from one contributor on the filed campaign statements exceeded the contribution limit by $1,250 for the Primary Election.
- Contributions received from 7 contributors for the General Election totaling $6,000 were not refunded.
- On January 11, 2017, $100,000 was transferred with attribution from the Galgiani for Senate 2016 ID# 1353849 committee (Senate 2016 Committee) to the Galgiani for Board of Equalization 2018 committee, approximately $41,000 of the funds were not attributed to 26 contributors required to be itemized. Instead, contributions totaling approximately $41,000 were attributed to 55 other contributors.
- On December 31, 2017, $320,000 was transferred with attribution from the Senate 2016 Committee to the Galgiani for Board of Equalization 2018 committee, funds totaling $267,515 were not attributed to 69 contributors required to be itemized. Instead, contributions totaling $307,475 were attributed to 259 other contributors. As noted prior, funds were attributed to contributions totaling approximately $41,000 when the prior $100,000 transfer was received with attribution on January 11, 2017, instead of this $320,000 subsequent transfer received on December 31, 2017.
- Contributions transferred with attribution from the for Senate 2016 Committee did not include the date the contributions were originally received by the Galgiani for Senate 2016 committee on the Galgiani for State Board of Equalization 2018 committee campaign statements.

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[14] Regulation 18536, subd. (d).

[15] All of the findings included in the July 28, 2023 Audit Report are past the five-year statute of limitations, except for $10,000 in contributions received on August 29, 2018 after the 2018 Primary Election when the Committee had no net debt, and $14,000 in discretionary expenditures made on October 30, 2018 after the 2018 Primary Election when the Committee had no net debt.

The Enforcement Division has determined that mitigating circumstances exist here: the candidate was unsuccessful in the Primary Election, the amount of contributions received and expenditures made after the 2018 Primary Election when the Committee had no net debt amounted to approximately 2% of the total raised and spent by the Committee, the Committee voluntarily terminated in 2019, and the candidate and the Committee have no prior similar violations of the Act within the past five years. Based on the foregoing, and in accordance with the Enforcement Division Policy Directives formally adopted by the Commission on January 26, 2023, which requires the Enforcement Division to take all appropriate actions within their discretion to decrease the Division's annual carryover caseload, the Enforcement Division is closing this case with this warning letter.[16] Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.[17] This resolution may not be used as a comparable case for other enforcement matters.[18]

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 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 yourselves of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten 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 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. Please feel free to contact me at abrereton@fppc.ca.gov or (916) 322-5771 (voicemail) with any questions you may have regarding this letter.

Sincerely,

Angela J Brereton

Angela J. Brereton,
Assistant Chief, Enforcement Division

[16] https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf
[17] Regulations 18360.1 and 18360.3.
[18] See Regulation 18361.5, subd. (e)(3).