



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

September 7, 2023

**Austin Bennett**, individually and on behalf of Austin Bennett for Senate 2018



**Warning Letter Re: FPPC No. 18/723; Austin Bennett for Senate 2018 and Austin Bennett**

Dear Austin Bennett and Committee:

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 sworn complaint filed against you and Austin Bennett for Senate 2018 (the “Committee”) alleging you violated the Act’s campaign disclosure provisions.

The Enforcement Division has completed its investigation and review of the facts in this case. Specifically, we found that the Committee failed to timely file: two pre-election campaign statements, electronically and in paper format, for the reporting periods ending April 21, 2018 and May 19, 2018, by the specified due dates; three semi-annual campaign statements, electronically and/or in paper format, for the reporting periods ending December 31, 2017, June 30, 2018, and December 31, 2018, by the specified due dates; and 24-hour contribution reports for five late contributions received totaling \$8,250, by the specified due dates. Additionally, the Committee accepted prohibited cash contributions totaling \$5,100 and failed to maintain detailed campaign records for 14 expenditures totaling \$8,604. Furthermore, the Enforcement Division found that you failed to timely disclose five sources of income, a business position, and a real property financial interest on your Candidate Statement of Economic Interests (“SEI”).

The Act requires candidate-controlled committees to file semi-annual campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.<sup>2</sup> In addition to semi-annual campaign statements, all candidates appearing on the ballot to be voted on at the next election, and their controlled committees, must file two pre-election campaign statements no later than 40 days before the election for the period ending 45 days before the election, and no later than 12 days before the election for the period ending 17 days before the election.<sup>3</sup> Also, each candidate or committee

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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 18104 through 18998 of Title 2 of the California Code of Regulations.

<sup>2</sup> Section 84200.

<sup>3</sup> Sections 84200.5 and 84200.8.

that receives a late contribution<sup>4</sup> shall report the late contribution within 24 hours of the time it is received.<sup>5</sup>

The Act requires state candidate-controlled committees to file campaign statements electronically with the Secretary of State provided that the total cumulative amount of contributions received or expenditures made is \$25,000 or more.<sup>6</sup> Committees that are not required to file electronically may do so voluntarily.<sup>7</sup> If a committee begins to voluntarily file campaign statements electronically, then that committee must file all subsequent statements electronically.<sup>8</sup> In addition to filing campaign statements electronically, a committee must continue to file a paper copy of the campaign statements with the Secretary of State.<sup>9</sup>

The Act prohibits committees from accepting cash contributions of \$100 or more.<sup>10</sup> Additionally, the Act requires candidates and treasurers to 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 provisions of the Act.<sup>11</sup> Controlling candidates and committee treasurers are jointly and severally liable for violations by the committee.<sup>12</sup>

The Act requires for every candidate for an elected state office to file a statement disclosing their investments, interests in real property, and any income received during the immediately preceding 12 months.<sup>13</sup>

You and the Committee violated the Act because you failed to timely file certain campaign statements and reports, accepted prohibited cash contributions, and failed to maintain detailed campaign records, as discussed above.<sup>14</sup> Additionally, you violated the Act because you failed to timely disclose certain financial interests on your Candidate SEI, as discussed above.<sup>15</sup> However, mitigating evidence exists such that the Enforcement Division has elected to close this case with a warning letter rather than a penalty. You were a first-time candidate with no prior experience with the Act. You were unsuccessful in the June 5, 2018 Primary Election. You

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<sup>4</sup> “Late contribution” includes a contribution, or loan, that totals in the aggregate \$1,000 or more and is received by a candidate or controlled committee during the 90-day period preceding the date of the election, or on the date of the election, at which the candidate is to be voted on. (Section 82036.)

<sup>5</sup> Section 84203.

<sup>6</sup> Sections 84215 and 84605.

<sup>7</sup> Section 84605, subd. (c).

<sup>8</sup> Section 84605, subd. (d).

<sup>9</sup> Section 84215.

<sup>10</sup> Section 84300, subd. (a).

<sup>11</sup> Section 84104.

<sup>12</sup> Sections 83116.5 and 91006.

<sup>13</sup> Sections 87200 and 87201.

<sup>14</sup> An administrative action for a violation of the Act has a five-year statute of limitations. In this matter, a probable cause report was served on Respondents on January 18, 2023, effectively tolling the statute of limitations. (See Sections 83115.5 and 91000.5.)

<sup>15</sup> *Id.*

cooperated with the Enforcement Division's investigation and filed amendments attempting to disclose all of the Committee's campaign activity and your financial interests. The lack of recordkeeping did not inhibit the Enforcement Division's investigation. Furthermore, the violations at issue here caused minimal public harm, your campaign had a relatively low amount of activity, you and the Committee do not have a prior enforcement history, and there was no evidence of an intent to conceal the violations. 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.<sup>16</sup> Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.<sup>17</sup> Additionally, discretion was used for violations that caused minimal public harm when the lack of experience or knowledge of the Act's requirements caused multiple violations with minimal public harm and the committee had a relatively small amount of activity.<sup>18</sup> This resolution may not be used as a comparable case for other enforcement matters.<sup>19</sup>

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.

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<sup>16</sup> <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

<sup>17</sup> Regulations 18360.1 and 18360.3.

<sup>18</sup> Regulation 18360.2.

<sup>19</sup> See Regulation 18361.5, subd. (e)(3).

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](http://www.fppc.ca.gov). Please feel free to contact me at [JRinehart@fppc.ca.gov](mailto:JRinehart@fppc.ca.gov) or (916) 323-6302 (voicemail) with any questions you may have regarding this letter.

Sincerely,

*Jenna Rinehart*

Jenna C. Rinehart,  
Commission Counsel  
Enforcement Division

cc: Andrew Liebich [REDACTED]