



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

August 31, 2023

David Fennell,  
David Fennell for Lieutenant Governor 2022, and  
David Fennell for Lieutenant Governor 2018

**Re: Warning Letter: FPPC Nos. 2021-00645 and 2018-01383, In the Matter of David Fennell for Lieutenant Governor 2022, David Fennell for Lieutenant Governor 2018, and David Fennell.**

David Fennell and Committees,

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 referral from the Secretary of State, from an audit report from the Franchise Tax Board,<sup>2</sup> and from a Commission-initiated complaint alleging that David Fennell, the committee, David Fennell for Lieutenant Governor 2022 (“2022 Committee”), and David Fennell for Lieutenant Governor 2018 (“2018 Committee”) failed to timely file campaign statements and failed to comply with the Act’s one bank account rule.

The Enforcement Division has completed its investigation of the facts of this case. Specifically, the Enforcement Division found that David Fennell was a candidate for Lieutenant Governor in the 2018 and 2022 Primary Elections. Fennell and the 2022 Committee failed to timely file at least four campaign statements to disclose activity for the reporting periods of January 1, 2021 through at least June 30, 2022. In addition, Fennell and the 2018 Committee failed to timely file at least four campaign statements to disclose activity for the reporting periods of January 1, 2018 through at least December 18, 2018. Fennell and the 2018 Committee also failed to comply with the Act’s one bank account rule as the candidate utilized personal accounts and credit cards to make campaign expenditures.

Under the Act, a candidate-controlled committee must timely file campaign statements, including the semi-annual statements due on July 31, for the period ending June 30 and on January 31, for the period ending December 31.<sup>3</sup> In addition, when the candidate is listed on the ballot, the controlled committee must file two pre-election campaign statements.<sup>4</sup> These statements are due,

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<sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in §§ 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

<sup>2</sup> The audit reported from the Franchise Tax Board stated that an audit could not be performed because records were not provided and that therefore, the Franchise Tax Board was unable to express an opinion regarding compliance with the Act.

<sup>3</sup> Section 84200.

<sup>4</sup> Section 84200.5.

even if the candidate and committee had minimal or no activity. In addition, a candidate-controlled committee must make all campaign contributions from a designated campaign bank account.<sup>5</sup> Any personal funds a candidate intends to spend on campaign-related expenses, including any loans from the candidate to the committee, must first be deposited in the campaign bank account before the expenditure is made.<sup>6</sup>

You violated the Act by failing to timely file campaign statements by the statutory deadline and by failing to utilize a designated campaign bank account.

The Enforcement Division has determined that mitigating circumstances exist here. The evidence obtained shows that Fennell never obtained office, the Respondents do not have recent prior enforcement history with the FPPC, and the 2018 Committee filed outstanding campaign statements after being contacted by the Enforcement Division. 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>7</sup> Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.<sup>8</sup> This resolution may not be used as a comparable case for other enforcement matters.<sup>9</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>5</sup> Section 85201.

<sup>6</sup> Section 85201, subdivision (d) and Regulation 18524, subdivision (a).

<sup>7</sup> <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

<sup>8</sup> Regulations 18360.1 and 18360.3.

<sup>9</sup> See Regulation 18361.5, subdivision (e)(3).

If you need forms or a manual, or guidance regarding your obligations, please visit our website at [www.fppc.ca.gov](http://www.fppc.ca.gov). Please feel free to contact me at [tgilbertson@fppc.ca.gov](mailto:tgilbertson@fppc.ca.gov) or (916) 323-6421 (voicemail) with any questions you may have regarding this letter.

Sincerely,

**Theresa Gilbertson**

Theresa Gilbertson  
Senior Commission Counsel  
Enforcement Division

CC: Secretary of State  
Franchise Tax Board