



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

September 7, 2023

Lawrence Stone
Office of the Santa Clara County Assessor
70 West Hedding Street
San Jose, CA 95110-1771
Via email: Assessor@asr.sccgov.org; lori.cichon@asr.sccgov.org

Re: Warning Letter; FPPC No. 2018-01255, Lawrence Stone, Santa Clara County

Dear Lawrence E. Stone:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").¹ As you know, the Fair Political Practices Commission received two anonymous complaints and a sworn complaint alleging that an Annual Report issued by the Santa Clara County Assessor's Office violated the Act's prohibition against mass mailings at public expense when featuring a public official. Upon review, the Enforcement Division has determined that there was a violation of the Act but will close this matter with a warning letter.

The Act provides that no newsletter or other mass mailing shall be sent at public expense.² A mass mailing is defined to mean over 200 substantially similar pieces of mail but does not include a form letter or other mail that is sent in response to an unsolicited request, letter, or other inquiry.³ A mailing is prohibited under the Act if the following criteria are met: 1) The item must be a tangible item; 2) the item must either feature an elected officer affiliated with the agency that produces or sends the mailing or includes the name, office, photograph, or other reference to an elected officer affiliated with the agency that produces or sends the mailing and is prepared or sent in cooperation, consultation, coordination, or concert with the elected officer; 3) the distribution costs must exceed \$50 and are paid with public monies; and 4) more than 200 substantially similar items are sent in a single calendar month.⁴

The Enforcement Division determined that the Assessor's Office issues an annual report. This report features the Assessor, Lawrence Stone, an elected official, in several places within the report. According to the information provided by you, the Assessor's office sends a letter to past recipients and asks if they would prefer to no longer receive the report or to receive a digital copy. If they do nothing in response to the letter, they will continue to receive a mailed copy of the Annual Report. You provided that this practice was adopted to bring the County in Compliance

¹ 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.

² Section 89001.

³ Section 82041.5.

⁴ Section 89002.

with Section 89002. You provided that recipients of the report include local elected officials, chief executives, financial officers, members of the local media, community groups, and persons who individually request copies of the report. You provided that costs to send the physical copy of the report through the postal service exceeds \$50 dollars and is paid for by the County.

In order for this mailing to not qualify as a mass mailing at public expense, the mailing would only be permitted to be sent in tangible form to those recipients who requested a copy. According to your information, however, the Assessor's Office places an affirmative burden on recipients to declare their disinterest or interest in receiving a copy when the Assessor's Office was not certain whether the recipient had actually requested a copy. When a response is not received, the report is sent anyway. So, it appears that individuals who did not affirmatively request the tangible report each year received a copy of the report. Therefore, the Enforcement Division finds that this mailing, which features a public official, is in violation of the Act. However, in mitigation, you have provided information regarding a good faith attempt to remain in compliance with the Act, and you have no prior enforcement history. 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.⁵ Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.⁶ This resolution may not be used as a comparable case for other enforcement matters.⁷

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.

⁵ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

⁶ Regulations 18360.1 and 18360.3.

⁷ 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. Please feel free to contact me at tgilbertson@fppc.ca.gov or (916) 323-6421 (voicemail) with any questions you may have regarding this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Gilbertson', with a stylized, flowing script.

Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

CC: Sworn Complainant, Mullissa Willette, via email.