

File

State of California

Memorandum

Date : Nov. 10, 1976

To : John K. Natalie
 Nan Mickey
 Gina Dan
 Jay Bob S.
 Mike Barbara
 Ken F. Fred
 Rich M.

From : FAIR POLITICAL PRACTICES COMMISSION
 Ted Prim

Subject: Question from Tony Alperin concerning late penalties under Section 91013.

~~Deep?~~
~~76 HS~~
 M-76-518

If a city clerk imposes a late filing penalty pursuant to Section 91013 on a city official, and the official refuses to pay the penalty, who is responsible for enforcing the fine? At the October 5 Opinion Request Meeting, the staff concluded that either the city clerk or the city's legal officer (usually the city attorney) is responsible for enforcing such fines. These fines are not civil penalties within the meaning of Section 91001, and thus, are not the responsibility of the civil prosecutor. (The district attorney is the civil prosecutor with respect to most local candidates). Moreover, the bounty hunter provisions of Section 91004 do not appear to be applicable to the collection of late filing penalties because that section limits recovery to the "amount or value not properly reported" and does not include the recovery of fines. However, pursuant to Section 91003, a citizen residing in the jurisdiction could obtain an injunction to require a local candidate to file his campaign statement, but any late penalties would be enforceable only by the city clerk or the city's legal officer.

TP:jo



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76518

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