

91013

Memorandum

To : Mickey Bennett

Date : May 30, 1979

M-79-143

From : **FAIR POLITICAL PRACTICES COMMISSION**
Ted Prim

Subject: Penalties for Failing to Complete Statement of Economic Interests Correctly

Recently, you asked whether we should issue late fines to officials who make substantial amendments to their Statements of Economic Interests well after the deadline date for filing.

The Act and Codes adopted pursuant thereto require the filing of Statements at prescribed times. The late fine provisions of Section 91013 are designed to provide mild punishments to those filers who fail to file their Statements in a timely fashion. Other provisions in the Act provide for civil, criminal and administrative remedies for either failing to file a Statement or failing to accurately report one's financial interests. Sections 91000, 91003.5, 91004, 91005.

When a person files an amendment to a timely filed Statement, it does not change the fact that his Statement nevertheless was filed in a timely fashion; rather, he is indicating that his Statement did not accurately report his financial interests. Therefore, the appropriate remedy lies in a civil, criminal or administrative action, not in the imposition of a late fine.

In terms of what it means to file a Statement, the Commission opinion issued to Rex Layton, 1 FPPC Opinions 113, discusses two aspects of the problem. First, the opinion states that a Statement which is not signed under penalty of perjury is not deemed to have been filed in timely fashion. Therefore, a person may be assessed late filing penalties under Section 91013 for failure to file in a timely fashion if he sends in an unsigned Statement.

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Second, a Statement which contains all reportable interests but which is not filed on the proper form is deemed to have been timely filed. However, upon notice from the filing officer, the filer has an obligation to immediately file an amended Statement on the proper form. Thus, a late filing penalty under Section 91013 may not be assessed against a person who files in a timely fashion but fails to file on the proper form.

TP:ma