



FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807

(916) 322-5660 • Fax (916) 322-0886

April 29, 2002

Edward C. Noonan
Candidate for Secretary of State
1561 N. Beale Road
Marysville, CA 96901

Re: Our File No. G-02-107

Dear Mr. Noonan:

This is in response to your letter dated April 2, 2002, which was received in our office on April 22, 2002. You have requested a hearing by the Fair Political Practices Commission (the "Commission") regarding a late filing penalty of \$100 imposed by the Los Angeles County Registrar-Recorder (the "County") in connection with the filing of your candidate campaign statement (Form 470).

The Commission is the agency responsible for administering the Political Reform Act of 1974 (the "Act"), which is contained in title 9 of the California Government Code, sections 81000-91014. The provisions quoted in your letter are part of the Act. As you noted, section 91001(a) provides that the Attorney General has responsibility for enforcement under the Act; however, because section 91001(a) refers to *criminal* violations of the Act, it is not applicable to the late filing penalty imposed by the County.¹

Section 91013 authorizes the Secretary of State, as well as city and county filing officers, to impose penalties on candidates and committees that file campaign statements after their deadline. As you point out, section 84215 requires candidates for statewide elective office to file their original campaign statements with the Secretary of State, and copies with the Registrar-Recorder of Los Angeles County and the Registrar of Voters of the City and County of San Francisco.² According to the letter sent to you by Los Angeles County, your campaign statement, which was due on January 24, 2002, was not

¹ The Commission is the civil prosecutor under the Act, and also may impose administrative penalties. (Sections 83116 and 91001(b).)

² These requirements are published on the Commission's web site (www.fppc.ca.gov) as well as the information manual for candidates (copy enclosed).

filed with them until March 21, 2002. As a result, the County imposed a late filing penalty under section 91013(b).

Section 91013 states:

“(a) If any person files an original statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed. Liability need not be enforced by the filing officer if on an impartial basis he or she determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except that no liability shall be waived if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate’s statement filed pursuant to Section 87201, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements or reports, after the filing officer has sent specific written notice of the filing requirement.

(b) If any person files a copy of a statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this chapter, be liable in the amount of ten dollars (\$10) per day, starting 10 days, or five days in the case of a campaign statement required to be filed 12 days before an election, after the officer has sent specific written notice of the filing requirement and until the statement is filed.

(c) The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which he or she is an officer. No liability under this section shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater.”

(Emphasis added.)

The Act grants total authority for imposing or waiving late filing penalties to the filing officer. There is no provision for an appeal or hearing before the Commission or the Attorney General, and the Commission has no authority under the Act to rescind the fine or direct the County to rescind the fine. (*Owens* Advice Letter, No. G-94-151; *Burgess* Advice Letter, No. A-98-245.) You may wish to contact the County to determine if there are any procedures under which you may request from them a waiver or reduction of the fine.

If you have any questions concerning this letter, please contact me at our toll-free number (866) 275-3772.

Sincerely,

Luisa Menchaca
General Counsel



Carla Wardlow
Division Chief
Technical Assistance Division

Enclosure