



FAIR POLITICAL PRACTICES COMMISSION

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December 21, 2011

Kenneth Moser
11280 Spica Drive
San Diego, CA 92126

Re: **Your Request for Advice**
Our File No. G-11-231

Dear Mr. Moser:

This letter is in response to your request for advice regarding the enforcement provisions of the Political Reform Act (the "Act").¹ Because your inquiry is general in nature and does not involve a specific decision, we will treat your letter as a request for general information.²

Please note that our advice is based solely on the provisions of the Act. We therefore offer no opinion on the application, if any, of other laws that may apply.

QUESTION

You asked whether Section 91004 requires that a person bringing a civil action against an official for misconduct must reside in the jurisdiction in which the alleged misconduct occurred.

CONCLUSION AND DISCUSSION

Section 91004 provides:

"Any person who intentionally or negligently violates any of the reporting requirements of this title shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported."

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The Regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance and general information letters do not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

You asked how the term "jurisdiction" should be interpreted in the section.

Section 91004 was an original provision of the Act. The Appellate Court in *Cliff Sanders et al. v. Pacific Gas And Electric Company et al.* (1975) 53 Cal.App.3d 661, at 671-672 described Section 91004 as follows:

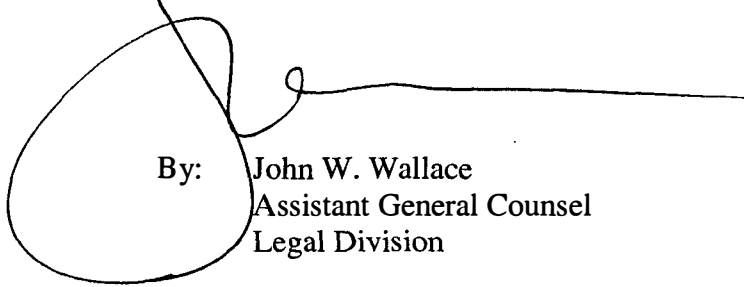
"Proposition 9, the Political Reform Act of 1974 (Gov. Code, § 81000 et seq.) also proposed by an initiative measure approved by the electors at the primary election held June 4, 1974, appears to contain a true qui tam provision. Section 91004 of the Government Code authorizes *any resident of a jurisdiction where violation of the act occurs* to bring an action 'for an amount not more than the amount or value not properly reported.' [Footnote omitted.] Section 91009 of the Government Code states [Footnote omitted.] '. . . the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited in the General Fund of the state.' [Footnote omitted.] All three requirements of a qui tam action are provided for: (1) a pecuniary penalty; (2) authority to bring suit to recover the penalty; and (3) payment to the plaintiff of part of the penalty." [Emphasis added.]

The Act defines jurisdiction in pertinent parts as "the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction." Thus, Section 91004 would only allow a resident of a jurisdiction where violation of the Act occurs to bring a civil action under that section.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By:  John W. Wallace
Assistant General Counsel
Legal Division

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