



# EXECUTIVE STAFF REPORTS

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*April 20, 2023 Commission Hearing*

## CONTENTS

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EXECUTIVE STAFF REPORTS.....	1
CONTENTS.....	1
I. ENFORCEMENT DIVISION.....	2
A. Overview.....	2
B. Annual Statistics.....	2
C. Prior Year’s Workload – 2022 Quarterly Summary.....	4
D. Presentations.....	4
E. Unexecuted Streamline Stipulations.....	4
II. AUDITS AND ASSISTANCE DIVISION.....	7
A. Overview.....	7
B. Current Period Updates.....	7
III. LEGAL DIVISION.....	8
A. Pending Litigation.....	8
B. Outreach and Training.....	8
C. New and Updated Educational Resources.....	9
D. Political Reform Education Program (PREP).....	9
E. Advice.....	9
F. Miscellaneous Decisions.....	9
G. Upcoming Regulation Projects.....	9
H. Conflict of Interest Codes.....	10
I. Probable Cause Proceedings.....	11
IV. ADMINISTRATION & TECHNOLOGY DIVISION.....	12
A. New Employee Report.....	12
B. Statement of Economic Interest (Form 700).....	12

# I. ENFORCEMENT DIVISION

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STAFF: CHRISTOPHER BURTON, ACTING CHIEF OF ENFORCEMENT

## A. Overview

During the period of March 1, 2023 through March 31, 2023, the Enforcement Division received the following complaints and referrals:

	Sworn	Proactive/Informal	Referrals
Number Received	34	33	152

During the same period, more time to respond beyond the 14-day statutory period was needed for approximately 16<sup>1</sup> sworn complaints.

Additionally, the Enforcement Division opened 73 cases from complaints and referrals received, rejected 76 complaints and referrals, and closed a total of 117 cases including:

- 68 warning letters – advertisement violations (5), campaign violations (22), conflict of interest violations (2), lobbying reporting violation (1), and statement of economic interests violations (38);
- 7 no action closure letters: PREP completed – statement of economic interests violations;
- 21 no action closure letters alleging – advertisement violation (1), campaign violations (6), conflict of interest violation (1), lobbying reporting violation (1), and statement of economic interests violations (6);
- 1 advisory letter alleging – advertisement violation;
- 17 approved stipulations from the February and March Commission meetings; and
- 3 committees were administratively terminated.

The Division had 1,403 cases in various stages of resolution at the time of the March Monthly Report and currently has approximately 1,361 cases in various stages of resolution, including the 8 cases before the Commission as listed in the April Agenda.

## B. Annual Statistics

On the next page, you will find a chart that details the annual statistics for enforcement complaints, referrals and cases. This chart includes the data from 2021, in which the Enforcement Division had a 16% increase in Streamline Penalties compared to 2020 after the Commission updated the Streamline Program regulations with the goal of making the Streamline Program more inclusive. The information in the chart has been gathered from public reports, information from the defunct and inactive database, and data that has been converted into current form, so the numbers are close estimates in some instances.

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<sup>1</sup> This figure includes 8 sworn complaints received in February 2023.

	<b>Year</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
1	Complaints Received	1,352	744	1,390	606	1,379
2	Referrals Received	1,529	1,950	1,518	1,751	1,724
3	Total Complaint and Referrals Received	2,881	2,694	2,908	2,357	3,103
4	Cases opened	1,561	1,820	1,155	1,185	990
5	Cases closed <sup>3</sup>	1,243	1,465	1,526	1,058	1,075
6	Cases with penalties <sup>2</sup>	235	343	278	269	161
	a Streamline cases	173	263	194	234	142
	b Mainline cases	56	73	77	32	14
	c Default cases	6	7	7	3	5
7	Total fines imposed	\$499,606	\$797,384	\$1,940,107	\$472,248	\$617,548
8	Warning letters issued	554	584	777	475	681
9	Administrative terminations	177	104	62	59	53
10	Cases closed with violations found <sup>3</sup>	966	1,031	1,117	803	895
1	Advisory letters issued	20	9	7	16	8
12	No action closure letters	252	423	402	237	217

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<sup>2</sup> Total for lines 6a, 6b, and 6c.

<sup>3</sup> Total for lines 6, 8, and 9.

<sup>3</sup> Total cases closed includes Commission approved cases from the previous year and Commission approved administrative judgements. It does not include Commission approved cases not yet closed.

### C. Prior Year's Workload – 2022 Quarterly Summary

	June 2022	September 2022	December 2022	April 2023	<b>Difference in Existing Caseload Overall</b>
2016	7	5	3	3	<b>-4</b>
2017	12	7	5	5	<b>-7</b>
2018	154	119	105	68	<b>-86</b>
2019	253	223	208	166	<b>-87</b>
2020	335	322	311	269	<b>-66</b>
2021	451	425	402	346	<b>-105</b>
2022	275	338	486	365	<b>+90</b>

### D. Presentations

None to report.

### E. Unexecuted Streamline Stipulations

Streamline penalty stipulations are approved by the Chief of Enforcement and reported to the Commission for discussion only before they are executed. The following streamline stipulations are presented for that purpose. After the close of the hearing, the Chief of Enforcement may execute all or any of the streamline penalty stipulations, at the Chief's discretion per Regulation 18360.2.

Since the last Monthly Report, the Enforcement Chief has not used discretion to increase the penalties for Tier Two advertising violations resulting in public confusion, under Regulation 18360.3(d)(7)(B)(i)(b), or to increase the penalties for Tier Two violations involving the same candidate, committee, or principal officer who has paid a Tier One penalty to the Commission or received a Warning Letter from the Commission for the same type of violation occurring within the last five years, based on the resulting public harm.

The Enforcement Chief used discretion under Regulation 18360.1 to include violations in the following streamline cases presented with this report: In the Matter of Citizens for a Stronger Chaffey College, Yes on P and Kim Erickson; FPPC No. 2019-00314 [The Chief of Enforcement may include or exclude any filer from receiving a streamline penalty based upon mitigating or aggravating circumstances and the totality of the circumstances, including situations where an exclusion may apply.]; In the Matter of William Resnick; FPPC No. 2022-00334 [The Chief of Enforcement may include or exclude any filer from receiving a streamline penalty based upon mitigating or aggravating circumstances and the totality of the circumstances, including situations where an exclusion may apply.]; and In the Matter of Michael Stubbs; FPPC No. 2022-00333 [The Chief of Enforcement may include or exclude any filer from receiving a

streamline penalty based upon mitigating or aggravating circumstances and the totality of the circumstances, including situations where an exclusion may apply.]

## Advertisements

**In the Matter of Santa Monicans for Change, to Support Negrete and Melkonians for City Council 2022, and Dominic Gomez; FPPC No. 23/058.** Staff: Christopher Burton, Acting Chief of Enforcement and Tara Stock, Intake Manager. Santa Monicans for Change, to Support Negrete and Melkonians for City Council 2022 is a local primarily formed committee to support local candidates. Dominic Gomez is the Committee's principal officer. The Committee and Gomez failed to include the proper disclaimers in the correct format on yard signs to support Negrete and Melkonians distributed prior to the November 8, 2022 General Election, in violation of Government Code Sections 84502, 84504.2, and 84506.5 (1 count). **Total Penalty: \$429 (Tier Two).**

**In the Matter of Citizens for a Stronger Chaffey College, Yes on P, and Kim Erickson; FPPC No. 19/314.** Staff: Alex Rose, Commission Counsel. Citizens for a Stronger Chaffey College, Yes on P is a local primarily formed committee. Kim Erickson served as the Committee's treasurer. The Committee and Erickson failed to include the proper advertising disclosures on two websites prior to the November 6, 2018 General Election, in violation of Government Code Sections 84502 and 84503 (2 counts). **Total Penalty: \$200 (Tier One).**

## Campaign Late Filer

**In the Matter of William Resnick; FPPC No. 22/334.** Staff: Christopher Burton, Acting Chief of Enforcement and Amber Rodriguez, Political Reform Consultant. The respondent was represented by Sarah Lang of Bell, McAndrews & Hiltachk, LLP. William Resnick, a major donor committee for the 2018, 2019, and 2020 calendar years, failed to timely file seven 24-hour contribution reports, in violation of Government Code Section 84203 (7 counts). **Total Penalty: \$5,988 (Tier One).**

**In the Matter of Michael Stubbs; FPPC No. 22/333.** Staff: Christopher Burton, Acting Chief of Enforcement and Amber Rodriguez, Political Reform Consultant. The respondent was represented by Sarah Lang of Bell, McAndrews & Hiltachk, LLP. Michael Stubbs, a major donor committee for the 2018, 2019, and 2020 calendar years, failed to timely file five 24-hour contribution reports, in violation of Government Code Section 84203 (5 counts). **Total Penalty: \$4,436 (Tier One).**

**In the Matter of Hardy Brown for San Bernardino County Board of Education Area D 2018 and Hardy Brown; FPPC No. 20/357.** Staff: Alex Rose, Commission Counsel and Lance Hachigian, Special Investigator. Hardy Brown was a successful candidate for San Bernardino County Board of Education Area D in the November 6, 2018 General Election. Hardy Brown for San Bernardino County Board of Education Area D 2018 was Brown's candidate-controlled committee. Brown served as the Committee's treasurer. The Committee and Brown failed to

timely file four semi-annual campaign statements, in violation of Government Code Section 84200 (4 counts). **Total Penalty: \$816 (Tier One).**

**In the Matter of Sonia Alvarado and Alvarado 4 School Board 2022; FPPC No. 23/007.**

Staff: Christopher Burton, Acting Chief of Enforcement and Vanessa Greer, Staff Services Analyst. Sonia Alvarado was a successful candidate for Ontario-Montclair School District Member, Governing Board Area 5 in the November 8, 2022 General Election. Alvarado 4 School Board 2022 was Alvarado's candidate-controlled committee and Alvarado served as the Committee's treasurer. The Committee and Alvarado failed to timely file three 24-hour contribution reports, in violation of Government Code Section 84203 (3 counts). **Total Penalty: \$630 (Tier One).**

**Statement of Economic Interests Late Filer**

**In the Matter of Mark Hohne; FPPC No. 19/1629.** Staff: Marissa Nash, Commission Counsel. Mark Hohne, former Committee Member for the Veterinary Medical Board, failed to timely file the 2018 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200 (Tier One).**

## II. AUDITS AND ASSISTANCE DIVISION

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STAFF: SHRDHA SHAH, CHIEF

*Audits are conducted per Government Code sections 90000 - 90008 of the Political Reform Act (the Act). The Act requires full disclosure of receipts and expenditures of candidates and committees and disclosure of the finances of lobbyists. The purpose of the audits is to determine the level of compliance of the auditees with the Act. The opinions expressed in the audit report reflect the level of compliance with the Act. The FPPC is not responsible for the contents of the candidate's documents. Audit reports are then submitted to the Enforcement Division for further review.*

### A. Overview

The audit reports prepared by the FPPC summarize findings with respect to the filer's conformity with the disclosure and recordkeeping requirements of the Political Reform Act. Copies of audit reports are always sent to the auditees and those included in the audit report (such as the prior treasurer, current treasurer and/or their representatives). These reports are public documents.

### B. Current Period Updates

During the period of March 1, 2023, through March 31, 2023, the Audits and Assistance Division adopted 1 audit report with findings. Currently the team has 30 audits in progress at various stages, including fieldwork, post-fieldwork, and quality review.

Details of the audit report adopted during the period are as follows:

- **Hallinan for Board of Equalization 2018 (ID# 1400986)**

#### **Findings Noted:**

1. Copies of contributors' checks were not maintained for 8 contributions received totaling \$31,450. Receipts and/or invoices were not maintained for expenditures totaling \$22,410. Canceled checks and bank statements were maintained to verify the names of the payees and the amount paid.
2. A Form 460 Semi-annual Statement for the period ending June 30, 2019 and a Termination Statement for the period ending September 4, 2019 were not filed.
3. On September 4, 2019, \$3,000 was transferred to O'Hallinan for Controller 2022 ID#1414953. The campaign bank account funds became surplus funds on March 31, 2019, 90 days after the end of the December 31, 2018 postelection reporting following a defeat.

## III. LEGAL DIVISION

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STAFF: DAVE BAINBRIDGE, GENERAL COUNSEL

### A. Pending Litigation

***Family Business Association of California, et. al. v. FPPC, et. al., (Superior Court County of Sacramento, Case No. 34-2023-00335169-CU-MC-GDS).*** Plaintiffs filed a civil complaint on February 22, 2023 in Sacramento County Superior Court seeking a court order: (1) declaring Government Code section 84308 as amended by SB 1439 (effective January 1, 2023) unconstitutional on grounds that it unlawfully amends the Political Reform Act and violates state and Federal right of free speech; and (2) enjoining the FPPC from enforcing Section 84308 on the same basis. The FPPC filed an answer on March 22<sup>nd</sup>. Both sides filed motions for judgment on the pleadings on April 4<sup>th</sup>. A hearing is set for May 25<sup>th</sup> on the parties' motions.

### B. Outreach and Training

#### *Webinars & Workshops*

- March 9, the FPPC presented a Statement of Economic Interests Filers webinar. Education and External Affairs Unit Manager, Chloe Hackert, presented. 30 people attended.
- March 14, the FPPC presented a Statement of Economic Interests Filing Officer webinar. Political Reform Consultants, Stephen Hernandez and Katie Trumbly, presented. 40 people attended.
- March 21, the FPPC presented a Campaign Filing Officer webinar. Political Reform Consultants, Alex Castillo and Adam Ramirez, presented. 24 people attended.
- March 24, the FPPC presented a Candidate/Treasurer workshop requested by Katz Compliance. Political Reform Consultant, Katie Trumbly, presented. 5 people attended.

#### *Scheduled Webinars*

- April 19, the FPPC is hosting a Candidate/Treasurer webinar.
- April 27, the FPPC is hosting a Campaign Filing Officer webinar.

*Video Tutorials:* Commission video tutorials were accessed a total of 1,232 times in March. Form 700 videos were accessed 963 times, the Candidate/Treasurer video was accessed 76 times, and the filing officer videos were accessed 193 times.



### C. New and Updated Educational Resources

- Updated Where to File Pages for [Candidates](#), [General Purpose Committees](#), [Ballot Measure Committees](#), and [Judicial Candidates](#).

### D. Political Reform Education Program (PREP)

During the period of March 1, 2023 through March 31, 2023, PREP received 10 referrals for the Statement of Economic Interests course. During this time, 11 learners completed PREP, 1 learner failed to complete PREP, and 13 learners are enrolled but have not yet completed the course.

### E. Advice

The [March Advice Report](#) is available on the FPPC website at <https://fppc.ca.gov/advice/advice-opinion-search/advice-letter-reports/2023-advice-letter-reports.html>.

In March, the Legal Division responded to the following requests for advice:

- **Education:** The Education unit responded to 803 requests for technical assistance via telephone.
- **Requests for Advice:** Political Reform Consultants and Legal Division attorneys collectively responded to 1,009 email requests for advice, 239 of which were not responded to within 24 hours.
- **Advice Letters:** The Legal Division received 21 advice letter requests under the Political Reform Act and completed 21.
- **Section 1090 Letters:** The Legal Division received 12 advice letter request concerning Section 1090 and completed 5. This year to date, we have received 24 advice requests regarding Section 1090.

### F. Miscellaneous Decisions

None

### G. Upcoming Regulation Projects

*May*

- Return of over-the-limit contributions - Update regulation concerning returning over-the-limit contributions due to passage of SB 794. (Adoption)
- Levine Act - Update regulations interpreting and implementing Section 84308 due to passage of SB 1439. (Adoption)

*June*

- Collection of Enforcement Penalties – Adopt a regulation detailing the Enforcement penalty collection process and permitting the reduction and/or discharge of penalties in certain circumstances. (Pre-notice)
- Advertising disclosure rules - Update regulations concerning advertising disclosure rules due to passage of SB 1360. (Adoption)
- Administrative subpoenas – Update Regulation 18361.1, including specifying voluntary compliance efforts required before issuing a subpoena. (Adoption)

*July – No Commission meeting*

**H. Conflict of Interest Codes**

**Adoptions and Amendments**

*State Agencies*

- Department of Health Care Access and Information
- Department of Motor Vehicles
- Energy Commission (Energy Resources Conservation and Development)

*Multi-County Agencies*

- CA Pacific Charter Schools
- Del Puerto Water District
- Desert Community College District
- East Turlock Subbasin Groundwater Agency
- Fairfield-Suisun Joint Unified School District
- Kings River Conservation District
- Las Virgenes Unified School District
- Merced Community College District
- Northeastern JPA
- Patterson Joint Unified School District
- Santa Clarita Valley Water Agency
- Transbay Joint Powers Authority
- Tri-Valley Transportation Council
- West Hills Community College District
- West Turlock Subbasin Groundwater Sustainability Agency

**Exemptions**

None

## Extensions

None

## I. Probable Cause Proceedings

Probable cause proceedings are conducted per Government Code section 83115.5. A finding of probable cause does not constitute a finding a violation occurred. Respondents are presumed innocent of any violation of the Act until a violation is proven in a subsequent proceeding.

***In the Matter of David Fennell For Lieutenant Governor 2022, David Fennell For Lieutenant Governor 2018, And David Fennell, Case Nos. 2018-01383 and 2021-00645.*** On March 29, 2023, probable cause was found to believe Respondents committed the following violations of the Act:

Count 1: The 2018 Committee and Fennell failed to make all deposits, including loans, into the campaign bank account and failed to make all expenditures from the campaign bank account, in violation of Government Code Section 85201.

Count 2: The 2022 Committee and Fennell, despite qualifying as a committee on or around July 9, 2021, failed to timely file the semi-annual campaign statement for the reporting period of January 1, 2021 through December 31, 2021, in violation of Government Code Section 84200.

Count 3: The 2022 Committee and Fennell failed to timely file the pre-election campaign statement for the reporting period of January 1, 2022 through April 23, 2022 due April 28, 2022, in violation of Government Code Sections 84200.5 and 84200.8.

Count 4: The 2022 Committee and Fennell failed to timely file the pre-election campaign statement for the reporting period of April 23, 2022 through May 21, 2022, due May 26, 2022, in violation of Government Code Sections 84200.5 and 84200.8.

Count 5: The 2022 Committee and Fennell failed to timely file the semi-annual campaign statement for the reporting period of May 22, 2022 through June 30, 2022, due by August 1, 2022, in violation of Government Code Sections 84200.

## **IV. ADMINISTRATION & TECHNOLOGY DIVISION**

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STAFF: LORESSA HON, CHIEF

### **A. New Employee Report**

#### **Executive Division**

Cole Smith, Staff Services Analyst

Julianna Contreras, Staff Services Analyst (Limited-Term)

### **B. Statement of Economic Interest (Form 700)**

As of April 1, 2023, 27 persons out of 2,389 who were required under their state or local agency conflict of interest code to file a 2022/2023 Annual Form 700 with due date of March 1 had not timely done so.