



EXECUTIVE STAFF REPORTS

May 18, 2023 Commission Hearing

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I. ENFORCEMENT DIVISION

STAFF: CHRISTOPHER BURTON, ACTING CHIEF OF ENFORCEMENT

A. Overview

During the period of April 1, 2023 through April 30, 2023 the Enforcement Division received the following complaints and referrals:

	Sworn	Proactive/Informal	Referrals
Number Received	36	33	109

During the same period, more time to respond beyond the 14-day statutory period was needed for approximately 10¹ sworn complaints.

Additionally, the Enforcement Division opened 72 cases from complaints and referrals received, rejected 52 complaints and referrals, and closed a total of 105 cases including:

- 72 warning letters – advertisement violations (3), campaign violations (28), lobbying reporting violation (4), statement of economic interests violations (36), and unlawful honorarium violation (1);
- 9 no action closure letters: PREP completed – statement of economic interests violations;
- 8 no action closure letters alleging – advertisement violation (1), campaign violations (2), conflict of interest violation (1), and statement of economic interests violations (4);
- 5 approved stipulations from the February and April Commission meetings; and
- 11 committees were administratively terminated.

The Division had 1,361 cases in various stages of resolution at the time of the April Monthly Report and currently has approximately 1,328 cases in various stages of resolution, including the 2 cases before the Commission as listed in the May 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 shows a significant increase in complaints and referrals received in 2022 compared to past years. The information in the chart has been gathered from public reports, information from the defunct and inactive database, and data

¹ This figure includes 2 sworn complaints received in March 2023.

that has been converted into current form, so the numbers are close estimates in some instances.

	Year	2018	2019	2020	2021	2022
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 ³	1,243	1,465	1,526	1,058	1,075
6	Cases with penalties ²	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 ³	966	1,031	1,117	803	895

² Total for lines 6a, 6b, and 6c.

³ Total for lines 6, 8, and 9.

³ 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.

11	Advisory letters issued	20	9	7	16	8
12	No action closure letters	252	423	402	237	217

C. 2022-2023 Quarterly Caseload Summary

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

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 exclude violations in the following streamline cases presented with this report: In the Matter of Katrina Foley; FPPC No. 2018-01091 [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. Here, in the interest of settlement, one count of failing to timely disclose the receipt of a gift (Section 87207) has been excluded.]

Statement of Economic Interests Late Reporter

In the Matter of Larry Elder; FPPC No. 21/698. Staff: Artin Berjikly, Senior Commission Counsel and Paul Rasey, Special Investigator. The respondent is represented by Steve Baric of Baric & Associates. Larry Elder, a candidate for Governor of California in the Gubernatorial Recall Election held on September 14, 2021, failed to accurately disclose a business entity investment, eight sources of business entity income, and an interest in real property on the Candidate Statement of Economic Interests, in violation of Government Code Sections 87206 and 87207 (10 counts). **Total Penalty: \$2,000 (Tier One).**

Gift Over-the-Limit

In the Matter of Katrina Foley; FPPC No. 18/1091. Staff: Jenna C. Rinehart, Commission Counsel and Lance Hachigian, Special Investigator. The respondent is represented by Nicholas Sanders of Sanders Political Law. Katrina Foley, a former Costa Mesa City Council Member, failed to timely disclose the receipt of a gift on the 2017 Annual Statement of Economic Interests, in violation of Government Code Section 87207 (1 count). Additionally, Katrina Foley accepted two gifts which exceeded the applicable annual gift limit, in violation of Government Code Section 89503 (2 counts). **Total Penalty: \$1,800 (Tiers One & Two).**

II. AUDIT DIVISION

STAFF: SHRDHA SHAH, CHIEF OF AUDITS

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 April 1, 2023, through April 30, 2023, the Audits and Assistance Division adopted 1 audit report with no findings. Currently the team has 33 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:

- **Theresa Taylor for CalPERS Board 2018 (ID #1375164)**
 - No findings noted.

III. LEGAL DIVISION

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 22nd. Both sides filed motions for judgment on the pleadings on April 4th. A hearing is set for May 25th on the parties' motions.

B. Outreach and Training

Webinars & Workshops

- April 19, the FPPC presented a Candidate/Treasurer webinar. Political Reform Consultants, Stephen Hernandez and Alex Castillo, presented. 3 people attended.
- April 27, the FPPC presented a Campaign Filing Officer webinar. Political Reform Consultants, Katie Trumbly and Adam Ramirez, presented. 15 people attended.
- On April 27, the FPPC conducted a conflict of interest code webinar for the California Department of Corrections and Rehabilitation. Political Reform Consultants Brianne Kilbane and Lindsay Rice presented. 17 people attended.

Scheduled Webinars

- May 27, the FPPC is hosting a Campaign Filing Officer webinar.

Video Tutorials: Commission video tutorials were accessed a total of 492 times in April. Form 700 videos were accessed 371 times, the Candidate/Treasurer video was accessed 74 times, and the filing officer videos were accessed 47 times.

C. New and Updated Educational Resources

- Updated [Advertising Disclosure Charts](#)

D. Political Reform Education Program (PREP):

During the period of April 1, 2023 through April 30, 2023, PREP received 6 referrals for the Statement of Economic Interests course. During this time, 5 learners completed PREP, and 14 learners are enrolled but have not yet completed the course.

E. Advice

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

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

- **Education:** The Education unit responded to 428 requests for technical assistance via telephone.
- **Requests for Advice:** Political Reform Consultants and Legal Division attorneys collectively responded to 564 email requests for advice, 93 of which were not responded to within 24 hours.
- **Advice Letters:** The Legal Division received 12 advice letter requests under the Political Reform Act and completed 12.
- **Section 1090 Letters:** The Legal Division received 7 advice letter request concerning Section 1090 and completed 10. This year to date, we have received 31 advice requests regarding Section 1090.

F. Miscellaneous Decisions

Regulation 18740 provides that an official or candidate is not required to disclose the name of a source of income on their Statement of Economic Interest if disclosure would violate California or Federal law. The following exemption was approved in April:

- Hon. Diane M. Goodman, Judge, Los Angeles County Superior Court, is exempt from disclosing as sources of income certain clients from her former law practice.

G. Upcoming Regulation Projects

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

August

- Contributions to candidates not appearing in a general election – Adopt a regulation detailing what a candidate-controlled committee may do with contributions for a general election when the candidate withdraws from the primary election or wins in the primary such that no general election is held. (Pre-notice)
- 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. (Adoption)

For more information on these and other regulation projects planned for 2023, go to <https://www.fppc.ca.gov/the-law/fppc-regulations.html>.

H. Conflict of Interest Codes

Adoptions and Amendments

State Agencies

- Department of Social Services
- Workforce Development Board

Multi-County Agencies

- Antelope Community College District
- CMFA Special Finance Agency
- Dinuba Unified School District
- Ednovate
- El Dorado Irrigation District
- Galt Joint Union Elementary School District
- Golden Gate Bridge, Highway, and Transportation District
- High Desert Corridor JPA
- John Adams Academies
- Northern CA Power Agency
- River Delta Unified School District
- Sierra-Sacramento Emergency Medical Services Agency

Exemptions

None

Extensions

None

I. Probable Cause Proceedings

None

IV. ADMINISTRATION & TECHNOLOGY DIVISION

STAFF: LORESSA HON, CHIEF OF ADMINISTRATION

A. New Employee Report

No New Staff to Report

B. Statement of Economic Interest (Form 700)

As of May 1, 2023, 8 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.