



# EXECUTIVE STAFF REPORTS

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*September 21, 2023 Commission Hearing*

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# I. ENFORCEMENT DIVISION

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STAFF: JAMES M. LINDSAY, CHIEF OF ENFORCEMENT

## A. Overview

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

	Sworn	Proactive/Informal	Referrals
<b>Number Received</b>	28	28	196

During the same period, more time to respond beyond the 14-day statutory period was needed for approximately 6<sup>1</sup> sworn complaints.

Additionally, the Enforcement Division opened 52 cases from complaints and referrals received, rejected 56 complaints and referrals, and closed a total of 87 cases including:

- 59 warning letters – campaign violations (9), mass mailing violation (1), statement of economic interests violations (49);
- 5 no action closure letters: PREP completed – statement of economic interests violations;
- 10 no action closure letters alleging – advertisement violations (2), campaign violations (2), conflict of interest violations (4), and statement of economic interests violations (2);
- 5 approved stipulations from the June Commission meeting;
- 7 committees were administratively terminated; and
- 1 closed as a duplicate.

The Division had 1,224 cases in various stages of resolution at the time of the August Monthly Report and currently has approximately 1,191 cases in various stages of resolution, including the 9 cases before the Commission as listed in the September 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

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<sup>1</sup> This figure includes 3 sworn complaints received in July 2023.

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

	<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
11	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. 2022-2023 Quarterly Caseload Summary

	September 2022	December 2022	March 2023	June 2023	Difference in Existing Caseload Overall
2016	5	3	3	0	-5
2017	7	5	5	2	-5
2018	119	89	68	56	-63
2019	223	195	166	125	-98
2020	322	301	269	234	-88
2021	425	382	346	298	-127
2022	338	440	365	329	-9

### 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 Regulations 18360.1 and 18360.3 to exclude violations in the following streamline cases presented with this report: In the Matter of Constitutional Patriots of Tuolumne County, Randell Hanvelt, and David Wynne; FPPC No. 21/734 [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, two counts of failing to timely file late independent expenditure reports (Section 84204) have been excluded.]; In the Matter of Fullerton Elementary Teachers Association PAC; FPPC No. 18/1487 [The Chief of Enforcement may include or exclude any filer from receiving a Tier Two 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 Santa Paula Police Officers Association; FPPC No. 19/1314

[The Chief of Enforcement may include or exclude any filer from receiving a Tier Two 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 Fullerton Elementary Teachers Association PAC; FPPC No. 18/1487.**

Staff: Marissa Corona, Commission Counsel and Roone Peterson, Special Investigator. Fullerton Elementary Teachers Association PAC is a local general purpose committee. The Committee failed to include the proper advertising disclosures on yard signs and banners distributed prior to the November 6, 2018 General Election, in violation of Government Code Sections 84502 and 84506.5 (4 counts). **Total Penalty: \$1,634 (Tier Two).**

### **In the Matter of Sonoma Citizens for Local Access Yes on Measure Y 2020 and Jon Early; FPPC No. 20/957.**

Staff: Jenna C. Rinehart, Commission Counsel and Kaitlin Osborn, Special Investigator. Sonoma Citizens for Local Access Yes on Measure Y 2020 was a local ballot measure committee primarily formed to support the approval of Measure Y, a personal cannabis cultivation initiative, on the November 3, 2020 General Election ballot for City of Sonoma. Jon Early served as the Committee's principal officer. The Committee and Early failed to timely file an amendment to its Statement of Organization to disclose the Committee's sponsor, Bear Flag Development, and to include the name of the sponsor in the Committee's name, in violation of Government Code Section 84102 (1 count). Additionally, the Committee and Early failed to include a disclosure in its internet website, in violation of Government Code Section 84504.3 (1 count). **Total Penalty: \$602 (Tiers One & Two).**

### **In the Matter of Santa Paula Officers Association and Daniel McCarthy; FPPC No. 19/1314.**

Staff: Jonathan Rivera, Commission Counsel. Santa Paula Officers Association was an independent expenditure committee. Daniel McCarthy served as the Committee's principal officer. The Committee and McCarthy failed to include the proper advertising disclosure on a newspaper ad distributed prior to the November 6, 2018 General Election, in violation of Government Code Section 84506.5 (1 count). **Total Penalty: \$115 (Tier One).**

## Campaign Reporting

### **In the Matter of Dutton for A V College Board Campaign Committee 2020, Michael Dutton, and Kenneth Scott; FPPC No. 21/219.**

Staff: Alex Rose, Commission Counsel. Michael Dutton was an unsuccessful candidate for the Antelope Valley Community College District Board in the November 3, 2020 General Election. Dutton for A V College Board Campaign Committee 2020 was Dutton's candidate-controlled committee and Kenneth Scott served as the Committee's treasurer. The Committee, Dutton, and Scott failed to timely report a \$843 contribution on the pre-election campaign statement with the reporting period ending on October 17, 2020, in violation of Government Code Section 84211 (1 count). **Total Penalty: \$125 (Tier One).**

## Campaign Late Filer

**In the Matter of Committee to Elect James Hernandez, Board of Director 2022, James Hernandez, and Barbara Hernandez; FPPC No. 23/452.** Staff: James M. Lindsay, Chief of Enforcement and Tara Stock, Intake Manager. James Hernandez was a successful candidate for the Vallecitos Water District Board in the November 8, 2022 General Election. Committee to Elect James Hernandez, Board of Director 2022, is Hernandez's candidate-controlled committee. Barbara Hernandez served as the Committee's treasurer. The Committee, Hernandez, and Hernandez failed to timely file five 24-hour contribution reports, in violation of Government Code Section 84203 (5 counts). **Total Penalty: \$1,527 (Tiers One & Two).**

**In the Matter of Constitutional Patriots of Tuolumne County, Randell Hanvelt, and David Wynne; FPPC No. 21/734.** Staff: Alex Rose, Commission Counsel and Lance Hachigian, Special Investigator. Constitutional Patriots of Tuolumne County is a local primarily formed committee. David Wynne served as the Committee's treasurer and Randell Hanvelt was the principal officer. The Committee, Wynne, and Hanvelt failed to timely file a semi-annual campaign statement and a 24-hour late expenditure report, in violation of Government Code Sections 84200 and 84204 (2 counts). **Total Penalty: \$767 (Tiers One & Two).**

**In the Matter of Patty Holohan for Redlands School Board 2022, Patty Holohan, and Melissa D. Morse; FPPC No. 23/568.** Staff: James M. Lindsay, Chief of Enforcement and Amber Rodriguez, Political Reform Consultant. Patty Holohan was a successful candidate for the Redlands Unified School District Board of Trustees in the November 8, 2022 General Election. Patty Holohan for Redlands School Board 2022 was their candidate-controlled committee. Melissa D. Morse served as the Committee's treasurer. The Committee, Holohan, and Morse failed to timely file one 24-hour contribution report, in violation of Government Code Section 84203 (1 count). **Total Penalty: \$698 (Tier One).**

## F. Policy Directives Quarterly Progress Report

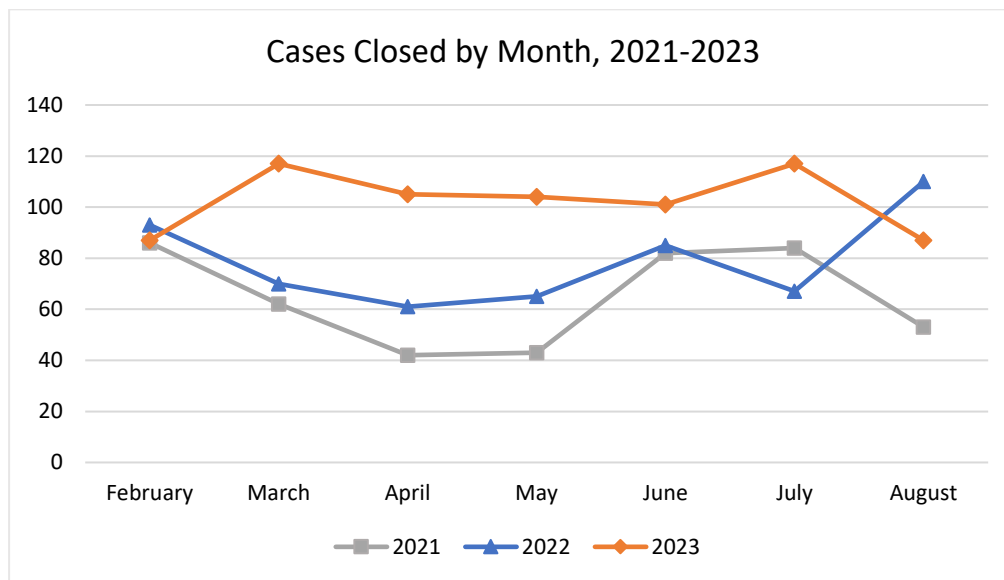
As mandated by the Enforcement Division Policy Directives formally adopted by the Commission on January 26, 2023, the following provides the initial progress report on achieving the case reduction goals stated in the Policy Directives. In particular, the Policy Directives require the Chief of Enforcement, in consultation with the Executive Director, to (i) take all appropriate actions within their discretion to reduce by 75 percent the number of open cases existing prior to January 1, 2023 as quickly as possible, and in no event later than December 31, 2024; and (ii) decrease the Division's annual carryover caseload to no more than 625 cases. The Policy Directives went into effect on February 1, 2023.

(i) The number of open cases existing prior to January 1, 2023 was 1,415. As of August 31, 2023, there were 924 open cases that existed prior to January 1, 2023, showing a decrease of 491 cases, or a 35 percent decrease. The following chart compares the number of cases opened for each year at the beginning of 2023 to the current number of cases for each year.

Year	# of Cases as of January 1, 2023	# of Cases as of August 31, 2023	Difference in Caseload for 2016-2022 Cases
2016	3	0	-3
2017	5	2	-3
2018	89	48	-41
2019	195	92	-103
2020	301	206	-95
2021	382	259	-123
2022	440	317	-123
<b>Total</b>			<b>-491</b>

(ii) As of January 1, 2023, the Enforcement Division had approximately 1,415 cases in various stages of resolution. Currently, there are 1,191 cases in various stages of resolution. As such, clear progress is being made to reduce the carryover caseload.

(iii) Since the implementation of the Policy Directives on February 1, 2023, the Enforcement Division has closed 718 cases total. For the period of February 1, 2022 through August 31, 2022, 551 cases had been closed. For the period of February 1, 2021 through August 31, 2021, 452 cases had been closed. The graph below shows a comparison of the number of cases closed for the same period in 2021, 2022, and 2023.



(iv) Lastly, the Policy Directives provide that the goal of the Enforcement Division shall be to resolve complaints and referrals within two years of receipt, except where the Enforcement Chief determines that circumstances warrant a longer period of time. Since the goal relates to a two-year timeframe and the Policy Directives went into effect only seven months ago, there is limited ability to assess progress on this goal presently. Future Quarterly Reports will more heavily assess progress in this area.



## II. AUDIT DIVISION

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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 June 1, 2023, through July 31, 2023, the Audits and Assistance Division adopted 1 audit report, with a finding. Currently, the team has 34 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:

- **Ben Pak for Board of Equalization 2018 (ID#1399704)**

**Finding noted:**

- Contributions received from 3 contributors exceeded the contribution limits by \$9,000. The excess contributions were not returned to the donors. A refund check was issued to Smart A & C dated June 14, 2018, which was not cashed by the contributor.
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## III. LEGAL DIVISION

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STAFF: DAVE BAINBRIDGE, GENERAL COUNSEL

### A. Pending Litigation

None

### B. Outreach and Training

#### *Webinars & Workshops*

- August 8, the FPPC presented a Statement of Economic Interests Filers workshop requested by the Northern California Assessors Association. Political Reform Consultant, Alex Castillo, presented. 106 people attended.
- August 15, the FPPC presented a Statement of Economic Interests Filers webinar requested by the State Water Resources Control Board. Political Reform Consultants, Stephen Hernandez and Adam Ramirez, presented. 309 people attended.
- August 15, the FPPC presented a Candidate/Treasurer Getting Started webinar requested by the County of San Benito. Political Reform Consultant, Stephen Hernandez, presented. 13 people attended.
- August 18, the FPPC presented a general FPPC update at the California Political Treasurers Association Annual Conference. Chief of Audits and Assistance Division, Shrdha Shah, Assistant Chief of Enforcement, Angela J. Brereton, and Education and External Affairs Unit Manager, Chloe Hackert, presented. 30 people attended.
- August 23, the FPPC hosted a Candidate/Treasurer webinar. Education and External Affairs Unit Manager, Chloe Hackert, and Political Reform Consultant, Alex Castillo, presented. 24 people attended.
- August 30, the FPPC hosted a Behested Payments webinar. Education and External Affairs Unit Manager, Chloe Hackert, presented. 4 people attended.

#### *Scheduled Webinars*

- September 19, the FPPC is hosting a Campaign Filing Officer webinar.
- September 26, the FPPC is hosting a Statement of Economic Interests Filing Officer webinar.

*Video Tutorials:* Commission video tutorials were accessed a total of 453 times in August. Form 700 videos were accessed 283 times, the Candidate/Treasurer video was accessed 94 times, and the filing officer videos were accessed 76 times.

### C. New and Updated Educational Resources

None

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

In August, PREP received 4 referrals for the Statement of Economic Interests course. During this time, 5 learners completed PREP, 3 learners failed to complete PREP, and 15 learners are enrolled but have not yet completed the course. One learner withdrew from PREP and opted to pay a streamline penalty instead.

## E. Advice

The [August Advice Letter 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 August, the Legal Division responded to the following requests for advice:

- **Education:** The Education unit responded to 356 requests for technical assistance via telephone.
- **Requests for Advice:** Political Reform Consultants and Legal Division attorneys collectively responded to 607 email requests for advice, 222 of which were not responded to within 24 hours and 126 of those were not responded to within 48 hours.
- **Advice Letters:** The Legal Division received 7 advice letter requests under the Political Reform Act and completed 7.
- **Section 1090 Letters:** The Legal Division received 3 advice letter request concerning Section 1090 and completed 2. This year to date, we have received 46 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 August:

- R. Rex Parris, City Council-Mayor, City of Lancaster, is exempt from disclosing as sources of income certain clients of his law practice.

## G. Upcoming Regulation Projects

*October*

- 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. (Adoption)
- 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)

*November*

- Lobbying of CA Citizens Redistricting Commission – Clarify in regulation that attempting to influence members of the California Citizens Redistricting Commission can qualify as “lobbying” under the Act. (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*

- CA Conservation Corps
- Department of Human Resources (CalHR)
- Department of Resources, Recycling, and Recovery (CalRecycle)

*Multi-County Agencies*

- Aspire Public Schools
- Kern Water Bank Authority
- Laguna Irrigation District
- West-Valley Mission Community College District

### **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 North Star Alliances, LLC, Ernesto Morales and Lauren Morales-Chitay, Case No. 20/00077.*** On August 7, 2023, probable cause was found, after a probable cause conference, that Respondents committed the following violations of the Act:

### Count 1: Contributions Made in the Name of Another by Intermediary or Agent

Morales made a \$2,500 contribution to the Flores Committee in a name other than the name by which the true source was identified and failed to disclose that Morales was acting as an intermediary or agent and failed to disclose the true source of the contribution, in violation of Government Code Sections 84301 and 84302.

### Count 2: Contributions Made in the Name of Another by Intermediary or Agent

Morales made a \$1,000 contribution to the Escobedo Committee in a name other than the name by which the true source was identified and failed to disclose that Morales was acting as an intermediary or agent and failed to disclose the true source of the contribution, in violation of Government Code Sections 84301 and 84302.

### Count 3: Contributions Made in the Name of Another

North Star made a \$500 contribution to the Delgado Committee in a name other than the name by which the true source was identified by, in violation of Government Code Section 84301.

### Count 4: Contributions Made in the Name of Another by Intermediary or Agent

Morales-Chitay made a \$500 contribution to the Delgado Committee in a name other than the name by which the true source was identified and failed to disclose that Morales-Chitay was acting as an intermediary or agent and failed to disclose the true source of the contribution, in violation of Government Code Sections 84301 and 84302.

### Count 5: Contributions Made in the Name of Another by an Intermediary or Agent

North Star made a \$1,200 contribution to the Valladares Committee in a name other than the name by which the true source was identified, in violation of Government Code Section 84301 and failed to disclose that the LLC was acting as an intermediary or agent and failed to disclose the true source of the contribution, in violation of Government Code Sections 84301 and 84302.

### Count 6: Contributions Made in the Name of Another by an Intermediary or Agent

North Star made a \$800 contribution to the Valladares Committee in a name other than the name by which the true source was identified and failed to disclose that the LLC was acting as an intermediary or agent and failed to disclose the true source of the contribution, in violation of Government Code Sections 84301 and 84302.

Count 7: Contributions Made in the Name of Another by an Intermediary or Agent

Morales-Chitay made a \$1,200 contribution to the Valladares Committee in a name other than the name by which the true source was identified and failed to disclose that Morales-Chitay was acting as an intermediary or agent and failed to disclose the true source of the contribution, in violation of Government Code Sections 84301 and 84302.

Count 8: Contributions Made in the Name of Another by an Intermediary or Agent

Morales made a \$800 contribution to the Valladares Committee in a name other than the name by which the true source was identified and failed to disclose that Morales was acting as an intermediary or agent and failed to disclose the true source of the contribution, in violation of Government Code Sections 84301 and 84302.

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

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STAFF: LORESSA HON, CHIEF OF ADMINISTRATION

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

#### **Audits and Assistance Division**

Angelica Cortez, Associate Management Auditor

Mersal Mateen, Staff Services Management Auditor

#### **Enforcement Division**

Vanessa Greer, Political Reform Consultant I (Promotion)

#### **Legal Division**

Tabbatha Perry, PREP Staff Services Analyst

Christian Durham, PREP Staff Services Analyst

Mayson Lord, Associate Governmental Program Analyst (Promotion)

Lindsay Rice, Political Reform Consultant II (Promotion)

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

As of September 1, 2023, 410 persons out of 17,110 who were required under their state or local agency conflict of interest code to file a 2022/2023 Annual Form 700 have not timely done so.