



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

To: Chair Remke and Commissioners Casher, Eskovitz, Wasserman and Wynne

From: Zackery P. Morazzini, General Counsel
Heather M. Rowan, Senior Commission Counsel

Subject: Pending Litigation

Date: October 1, 2014

Enforcement Cases

Fair Political Practices Commission v. James L. McGhee

James L. McGhee was a member of the California Board of Psychology until June 1, 2011, and was therefore required to file a leaving office statement of economic interests ("Leaving Office SEI") by July 1, 2011. On May 9, 2012, the Enforcement Division received a referral for Mr. McGhee's failure to timely file a Leaving Office SEI. Despite numerous requests by the Enforcement Division that he file the delinquent statement, Mr. McGhee refused to file a Leaving Office SEI.

On April 17, 2014, the Commission, in a default decision, imposed a \$4,000 fine on Mr. McGhee for his failure to file a Leaving Office SEI, and ordered that he immediately file a Leaving Office SEI with the Commission. (*In the Matter of James McGhee*, FPPC No. 12/321.) On June 2, 2014, the Enforcement Division filed a complaint against Mr. McGhee with the Sacramento County Superior Court. The Complaint sought an order from the Court requiring Mr. McGhee to comply with the Commission's order by immediately filing a Leaving Office SEI with the Commission. On August 13, 2014, the Enforcement Division received Mr. McGhee's Leaving Office SEI. On the same day, the Enforcement Division filed a request with the Court to have the case against Mr. McGhee dismissed. On August 14, 2014, the Court dismissed the case against Mr. McGhee.

Aldo A. Flores v. Fair Political Practices Commission

In September of 2013, the Enforcement Division subpoenaed bank records belonging to Aldo Flores as a part of a contribution laundering investigation focusing on Assembly Member Rodger Hernandez and his candidate controlled committee. Aldo Flores was served with copies of the Notice to Consumer and copies of the subpoenas. On September 12, 2013, in response to the subpoenas, Flores filed a complaint against the Commission alleging abuse of process and seeking declaratory relief in the Los Angeles County Superior Court. On October 11, 2013, the Enforcement Division filed an answer to the complaint, asserting a general denial to the causes of action. The Enforcement Division will be filing a motion for judgment on the pleadings, calendared for December 8, 2014, asserting that plaintiff failed to state facts sufficient to maintain any cause of action, and requesting the court to enter a judgment in favor of the Commission. A Case Management Conference was held on July 10, 2014. Aldo Flores failed to appear, and was fined \$250 for his unexcused nonappearance. The Conference was rescheduled for August 11, 2014. Aldo Flores again failed to appear at the Case Management Conference, and an Order to Show cause as to why terminating sanctions should not apply was set for October 21, 2014.

In re the Matter of Fair Political Practices Commission, Orange County Superior Court Case No. M15901

In August and September of 2014, the Enforcement Division subpoenaed bank records and communications belonging to eleven individuals in Orange County as a part of a contribution laundering investigation. These individuals were served with copies of the Notice to Customer, bank record subpoenas, and communications subpoenas regarding these contributions. In response to the subpoenas, on September 9, 2014, Attorney James M. Crawford filed a complaint against the Commission in Orange County Superior Court on behalf of these individuals alleging: (1) the subpoenas are overbroad and vague; (2) the subpoenas seek financial discovery without a court order; and (3) the federal and state Constitutional right to privacy protects financial and personal information from disclosure. The complaint is seeking an Order staying or quashing the subpoenas, or in the alternative, for a Protective Order limiting the nature and scope of the production in Orange County Superior Court. The Hearing has been set for October 17, 2014 in Santa Ana.