

## **Fair Political Practices Commission**

### **MEMORANDUM**

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

From: Gary S. Winuk, Chief of Enforcement

Date: October 6, 2014

RE: Pro-Active Gift Non-Reporting Cases. Agenda Items 35-105

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#### **I. INTRODUCTION**

This memo is being prepared to provide the Commission with information, in addition to that which is usually provided in a proposed streamlined settlement exhibit, due to the special circumstances and volume of the cases on this month's agenda related to a pro-active gift disclosure investigation.

#### **II. BACKGROUND ON PRO-ACTIVE INVESTIGATION**

This proactive effort came as a result of articles that were published in UT San Diego detailing gifts received by several Board Members of School Districts in San Diego, including Districts in Sweetwater and Poway. The Sweetwater articles resulted in felony criminal charges and convictions for failure to disclose gifts being levied against several Sweetwater School Board members in factual circumstances more severe than the conduct in question here.

As a result of these articles and once the criminal prosecutions were completed, the Enforcement Division began a pro-active investigation to determine if any other public officials within the State of California received unreported gifts over the Political Reform Act's (the "Act") \$50 disclosure limit from the same company who provided gifts to the officials in San Diego. Stone and Youngberg, a municipal bond finance company, was contacted to request their assistance in identifying officials who had received various gifts over the past four years. The company provided an extensive list, naming 312 officials.

The 312 public officials were then contacted and a search was conducted to determine whether these officials were in office and had a reporting requirement at the time of the alleged gift, whether they had actually received the gifts, and whether the gifts were reported on the official's relevant Statement of Economic Interests ("SEI") in a timely fashion. After this initial investigation, the Division was able to identify and locate a total of 282 officials who had reporting obligations and received reportable gifts.

***Of the 282 public officials in question, only 22 had reported their gifts.***

The other 260 officials were asked to amend their SEIs to reflect the gifts received, or provide exculpatory or mitigating information regarding the alleged unreported gifts. The Enforcement Division worked with the various respondents to address the additional information provided.

One of the gifts may have exceeded the applicable gift limits, and that case is still under review. Stone and Youngberg cooperated fully in the investigation.

Last year, the Enforcement Division conducted a similar pro-active effort regarding two other municipal bond underwriting companies, E.J. de La Rosa & Co., Inc. and Shea Properties. In those series of cases, of the 221 public officials in question, only 16 had properly reported their gifts.

### **III. PROPOSED SETTLEMENTS**

For the 260 public officials with found violations, the Enforcement Division evaluated each case based on the following criteria:

- What was the total value of unreported or under-reported gifts?
- If the gifts were reported on an amendment before enforcement contact, what was the time frame from required to reported disclosure?
- What was the public harm (considering the level of sophistication and decision-making power of each official or designated employee)?
- Was the conduct intentional, negligent, or inadvertent? There was insufficient evidence of intentional non-disclosure found. The conduct was concluded to be at worst negligent and at best inadvertent based on available information.

Based on these criteria, gifts more than double the disclosure threshold, i.e. \$100, were charged; gifts closer to the \$50 threshold were considered for a warning letter. With that, the Enforcement Division issued 93 proposed streamlined settlement offers and 167 warning letters were sent to respondents whose violations did not rise to the level of proposed fines. To date, proposed settlements have been reached with 71 public officials and 22 cases remain open.

### **IV. CONCLUSION**

The Enforcement Division believes a streamlined settlement is appropriate for those who did not receive a warning letter and recommends adoption of the proposed settlements.