

FAIR POLITICAL PRACTICES COMMISSION

ANNUAL REPORT

2014

STATE OF CALIFORNIA





All five FPPC Commissioners pose for a group photo at the Commission's 40th anniversary symposium. From left: Commissioner Sean Eskovitz, Commissioner Eric Casher, Chair Jodi Remke, Commissioner Patricia Wynne, and Commissioner Gavin Wasserman





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# Executive Summary

**2014** was an exciting and historic year for the Fair Political Practices Commission (FPPC or Commission). The Commission celebrated several momentous occasions, including the appointment of a new Chair and the 40-year anniversary of the Political Reform Act (Act). In addition to the inherent challenges presented by the midterm elections, the Commission also launched an online disclosure tool, monitored over 40 legislative proposals to change the Act, and continued a regulatory overhaul of conflict of interest rules, all while continuing to offer a wide-spectrum of educational opportunities for public officials and the regulated community to learn about their obligations under the Act.



The FPPC celebrated its 40th anniversary with a half-day symposium, historical exhibit, and full-length documentary centered on the evolution of political reform in California.



The Governor signed **8** bills changing the Political Reform Act.



The Commission improved **16** regulations on conflicts-of-interest, campaign disclosure, and gift limit rules.



The FPPC provided advice on over **22,000** inquiries submitted via phone, email, or mail.

Despite the FPPC's best educational compliance efforts, there are still numerous violations under the Act by people and entities. This year, the Commission's vigorous enforcement of the Act resulted in multiple long-standing records being shattered.



## Enforcement Highlights

### Record Number of Prosecutions

- In 2014, **1,005** cases were closed with proven violations.
- **332** cases resulted in stipulated resolutions approved by the Commission. This is the most ever in one year in the 40-year history of the Commission.
- **673** cases resulted in warning letters from the Commission.
- Over **90%** of cases were resolved in less than one year.

### Prosecutions of Serious Cases

- Prosecutions of money laundering violations were at their highest level ever in 2014 and have more than doubled since 2013.
- Prosecutions of serious campaign cases were at their highest level ever in 2014.
- The Enforcement Division continued to prosecute public officials who failed to report gifts or conflicts of interests on Statements of Economic Interests (SEIs).

### Pre-Election and Ethics Pro-Active Cases

- Continued to focus on aggressively compelling compliance with the Act prior to the Primary and General elections.
- Opened a record high number of cases pro-actively prior to elections in 2014.
- Opened **549** cases pro-actively and without external complainants.



# Commission Overview

## Brief History

The Fair Political Practices Commission was created in 1974 when California voters approved Proposition 9, the Political Reform Act (Act). In the wake of the Watergate Scandal, Californians sought to reign in the potential corruptive influence of special interests by creating an agency to enforce the most rigorous restrictions on fundraising and lobbying in the country.

Charged with regulating campaign finance, lobbying activity, and conflicts of interest, the Commission and the Political Reform Act have cemented California as a national leader in the regulation of governmental ethics. Over the last 40 years, the FPPC has been responsible for making disclosure of campaign contributors and the interests of public officials commonplace, and for shining light on some of the most egregious violations of campaign and governmental ethics in California.

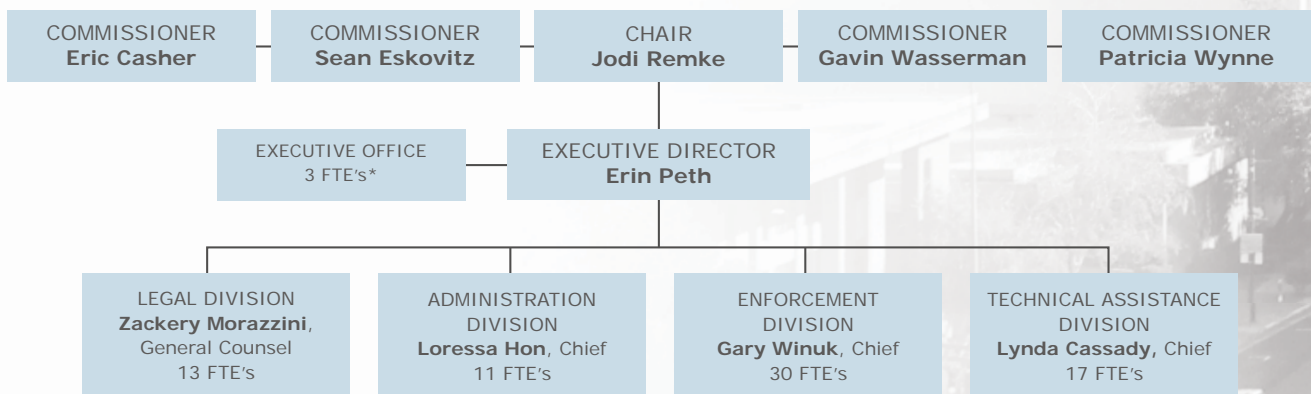
## Mission

**The mission of the Fair Political Practices Commission is to promote the integrity of state and local government in California through fair, impartial interpretation and enforcement of political campaign, lobbying and conflict of interest laws.**

## Commission Structure & Responsibilities

The FPPC is a five-member, bipartisan commission which meets monthly to make decisions on a wide spectrum of matters, including enforcement cases, adopting and rescinding regulations, and taking positions on legislation related to the Act.

Commissioners are appointed by various constitutional officers and serve staggered four-year terms. The Governor is responsible for appointing the Chair of the Commission and one other Commissioner from a different political party. The other Commissioners are appointed by California’s Attorney General, Secretary of State, and State Controller. The Commission’s Chair is the only full-time Commissioner and is responsible for setting the overall policy direction for the FPPC. Together with the Chair, the Executive Director provides day-to-day leadership to the Commission’s staff, who are organized into four divisions.



\*FTE = full-time equivalency

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## *Legal Division*

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The Legal Division is led by the General Counsel, who serves as the legal advisor for the Chair and Commissioners on a full range of policy matters. The General Counsel also advises Commissioners and staff on the interpretation and analysis of laws, court decisions, and rules and regulations affecting the Commission.

The Legal Division's responsibilities include acting as legal counsel for the Commission by representing the Commission in court and administrative proceedings, as well as promoting compliance with the law by providing verbal and written legal advice to individuals.

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## *Enforcement Division*

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The Enforcement Division is committed to providing timely and impartial investigations and prosecution of alleged violations of the Act. The Enforcement Division's jurisdiction covers all levels of government. In fulfilling its mission, the Division handles over a thousand complaints and prosecutes hundreds of cases per year. The Enforcement Division also operates a campaign audit program of both mandatory and discretionary audits, with a sharp focus on pre-election compliance.

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## *Administration Division*

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The Administration Division advises the Commission on fiscal, technology, personnel, and business services issues and provides critical support to FPPC staff. The Administration Division is responsible for the annual preparation and ongoing monitoring of the FPPC's budget, managing the Commission's IT infrastructure, as well as carrying out other core administrative functions for the agency.

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## *Technical Assistance Division*

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The Technical Assistance Division (TAD) is primarily responsible for the Commission's educational outreach and for administering the Form 700 program. Additionally, TAD operates an advice line where candidates, elected officials, campaign treasurers, ballot measures committees, various officials of state and local government agencies, lobbyists, their clients and employers, and city and county election officials can call for expert advice on how to comply with the Act.



# The FPPC Welcomes New Chair Jodi Remke

FPPC Executive Director Erin Peth swears in newly appointed Chair Jodi Remke

Chair Remke was appointed by Governor Brown to the Fair Political Practices Commission in April 2014 and she took office in June 2014. As Chair, she provides overall policy direction and acts as the presiding officer of the Commission.

Prior to her appointment to the FPPC, Chair Remke was appointed by the California Supreme Court in 2006 to serve as Presiding Judge of the State Bar Court. California was the first state in the country to establish an independent court dedicated to ruling on attorney discipline cases. In that position, she sat on a three-judge panel that heard appeals in attorney disciplinary and regulatory cases. She was responsible for ensuring the prompt disposition of cases by all judges, overseeing the Court's budget, and acting as spokesperson for the Court to the Legislature and the Governor's Office. In 2010, she sponsored an extensive rules revision project to increase the Court's efficiency and improve public protection without sacrificing fundamental fairness. As a result of her efforts and supervision, the average time to resolve a case was reduced by more than 50% at both the trial and appellate levels.

Prior to her appointment as Presiding Judge, she was appointed by the Senate Rules Committee to serve as a trial judge in the State Bar Court from 2000-2006. As Supervising Judge (2004-2006), she participated in the creation and adoption of the Court's performance standards on timeliness and productivity. She also collaborated on development of the Alternative Discipline Program for attorneys with substance abuse or mental health problems with the primary goal to reduce recidivism, thereby decreasing client harm while saving judicial resources.

Prior to her judicial career, Chair Remke served as counsel to the California Senate Judiciary Committee, practiced real estate law with the firm of Miller, Starr and Regalia in Oakland, and was a VISTA attorney in Montana repre-

senting clients in domestic violence cases and advocating on behalf of children with disabilities in a rural, underserved area. She has also served on the boards of directors of Project Open Hand and Girls Inc.

Chair Remke received her Bachelor's degree in Political Science from the University of Illinois, and her J.D. from McGeorge School of Law. She has been a member of the California State Bar since 1992.

## Chair's Priorities

Since beginning her tenure in June, Chair Remke has put forth multiple policy goals she hopes to accomplish over her term. Initially, the Chair has directed that technology be used to increase transparency and help reengage the public's trust in government. Specifically, Chair Remke has made establishing electronic filing for public official's Statements of Economic Interests (Form 700s) one of her top priorities. Additionally, the Chair is engaged in multiple technology projects that will not only increase transparency, but will also make compliance with the Act easier for everyone.

Recognizing the legitimate difficulty for some public officials to follow the complex rules of the Act, Chair Remke has also made streamlining certain sections of the law another top priority. Over the course of her term, Chair Remke plans to eliminate duplicative processes and make the landmark political reform law more easily understandable, while maintaining the highest ethical standards.

Chair Remke also intends to continue strict enforcement of the most serious violations of the Act, while continuing to promote educational outreach to stop violations before they occur.



# Significant Achievements

## 40<sup>th</sup> Anniversary Symposium

To celebrate 40 years since the creation of the Act and the Commission, on September 17<sup>th</sup>, 2014, the FPPC hosted a half-day symposium in conjunction with University of the Pacific McGeorge School of Law. With over 350 attendees at the McGeorge Lecture Hall, the event featured prominent speakers such as California Democratic Party Chair John Burton, State Librarian Greg Lucas, and Loyola Law School Professor Jessica Levinson on panels discussing the past, present, and future of political reform in California. The dynamic event concluded with a keynote address delivered by Trevor Potter, former Chair of the Federal Election Commission, General Counsel to three presidential campaigns, and lawyer for Stephen Colbert's Super PAC.

### Exhibit

Also featured at the symposium was a historical exhibit detailing the evolution of campaign finance and the FPPC. With the help of the experts at the California State Library, the exhibit included campaign advertisements from both sides of the Proposition 9 race in 1974, photos of people who fought for the landmark political reform initiative, and political cartoons commenting on the culture of Sacramento and the legislature in the Watergate Era.

### Film - "Ethically Challenged"

To top off the celebrations, the FPPC also filmed a short documentary, "Ethically Challenged: Forty Years of Political Reform," further exploring the themes of the conference.

Commentators, including Governor Jerry Brown, former Governor Pete Wilson, Treasurer Bill Lockyer, prominent journalists, and former FPPC chairs, sat down to discuss California's political transformation from smoky back-room deals to a national leader in campaign finance disclosure and the regulation of governmental conflicts of interest. Brief clips of the documentary were used as run-ups to panels at the symposium. The full-length film aired on Cal Channel in October and continues to be available on YouTube.



Former FEC Chair Trevor Potter delivers keynote address at the FPPC's 40th anniversary symposium.



State Librarian Greg Lucas, California Democratic Party Chair John Burton, and the FPPC's second Chair Tom Houston on a panel discussing Sacramento's political climate before 1974.

## Top 10 Lists

Beginning in September 2014, the FPPC began posting the top 10 contributors to state committees who raised over \$1,000,000 and were formed to support or oppose ballot measures, and independent expenditure committees supporting or opposing candidates that met the same monetary threshold. These lists provide the public with a quick and easy way to cut through the unrelenting barrage of television ads faced by voters in the election season to understand exactly who is funding initiatives and candidates they vote on. The lists received statewide media attention, were featured on Capitol Public Radio's "Insight with Beth Ruyak," and were praised by advocacy groups including the California Voter's Foundation and League of Women Voters.

Following the conclusion of the 2014 general election, the FPPC expanded the top contributor lists to include committees supporting or opposing future ballot measures and measures that have yet to qualify for the ballot. This has already helped provide critical information about the sources of over \$35,000,000 in contributions to influence future ballot measures, including a referendum to overturn California's plastic bag ban.

# Disclosure Election Accountability Transparency



Supporting				
Consumer Watchdog Campaign - Yes on 45, a coalition of consumer advocates, attorneys, policyholders and nurses				
	Contributor	State	Status	Total Contributions
1	Consumer Watchdog Campaign - Yes on 45 and 46, a coalition of consumer advocates, attorneys and nurses	CA	-	\$1,243,529
2	California Nurses Association	CA	-	\$1,200,000
3	Kathryn Taylor	CA	-	\$500,000
4	Consumer Watchdog	CA	-	\$235,000
5	Thomas Steyer	CA	-	\$200,000
6	Yes on Prop 46, Your Neighbors for Patient Safety, a Coalition of Consumer Attorneys and Patient Safety Advocates	CA	NEW	\$132,005
7	Wylie A. Aitken and Affiliated Entity Wylie A. Aitken Law Corporation	CA	↑	\$125,000
8	Committee for Corporate Accountability and Consumer Protection	CA	↓	\$105,121
9	Shernoff Bidart Echeverria Bentley, LLP	CA	↓	\$50,000
10	Strumwasser & Woocher	CA	↓	\$50,000
11	Lieff, Cabraser, Heimann & Bernstein, LLP	CA	↓	\$50,000
12	Cotchett, Pitre & McCarthy, LLP	CA	↓	\$50,000
Total from top contributors				\$3,940,655



Public  
 Elections  
 Candidates  
 Money  
 Officials  
 Initiative  
 Measure  
 Campaigns  
 Transparency  
 Trust



### Highlights from Top 10 Lists

• **\$206,676,836** was raised to support or oppose state ballot measures on the November ballot.<sup>1</sup>

Of that,

• **\$158,082,018** came from the top donors to each committee primarily formed to support or oppose state ballot measures.

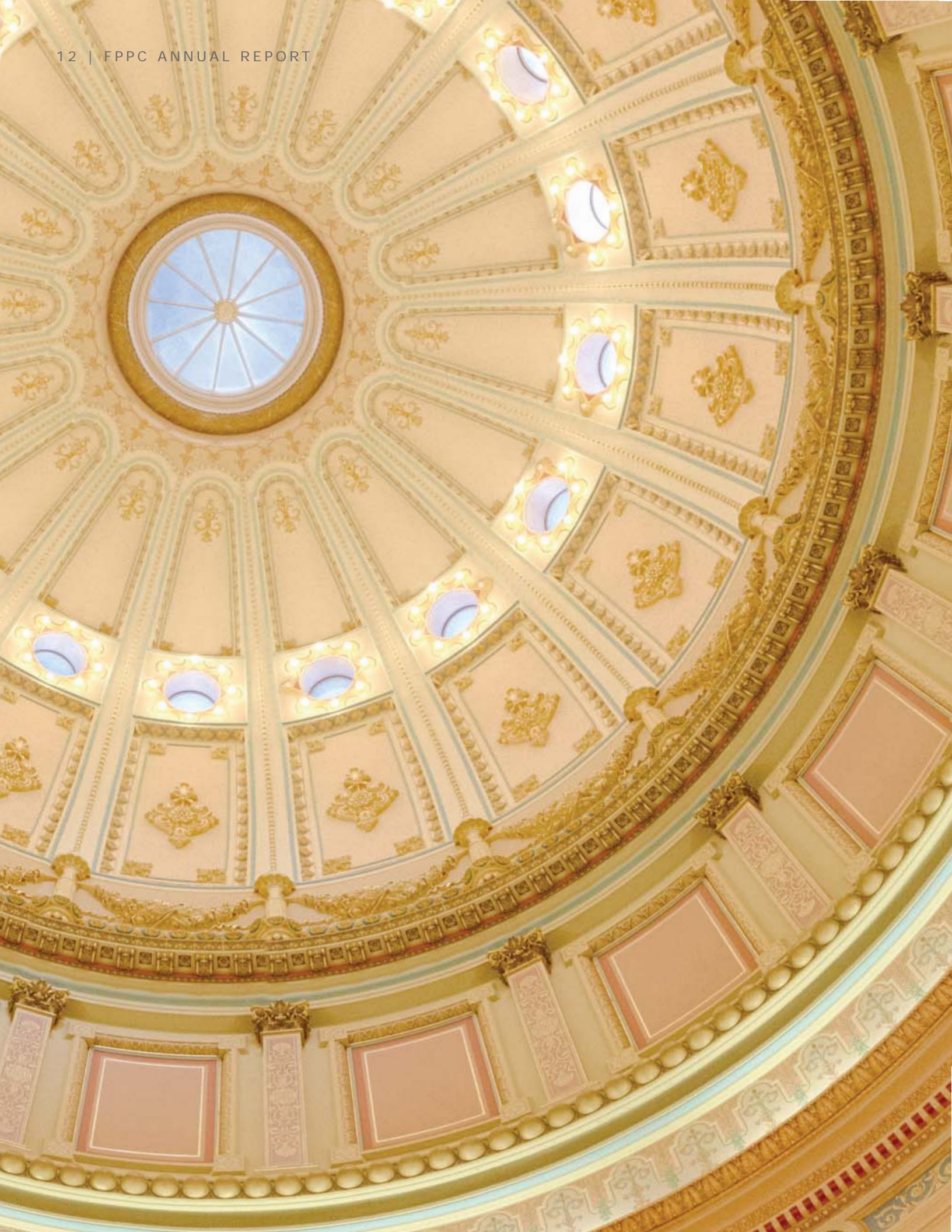
Which means,

• **77%** of money contributed to influence state ballot measures was given by **78** donors.

1. Figure comes from The Los Angeles Times' "2014 California Propositions Guide."

Opposing				
No on Prop. 45 - Californians Against Higher Health Care Costs. Major Funding by Kaiser Foundation Health Plan, Inc., Wellpoint, Inc. and Blue Shield of California with a Coalition of Doctors, Nurses, Hospitals, Health Plans, and California Employers				
	Contributor	State	Status	Total Contributions
1	Kaiser Foundation Health Plan, Inc.	CA	-	\$18,866,574
2	Wellpoint, Inc. and affiliated entities	CA	-	\$18,866,574
3	Blue Shield of California	CA	-	\$12,476,424
4	Health Net, Inc.	CA	-	\$5,518,324
5	UnitedHealthCare Insurance Company	MN	-	\$156,224
6	California Association of Health Plans	CA	-	\$65,000
7	California Association of Health Plans PAC	CA	-	\$10,000
8	California Hospitals Committee on Issues	CA	-	\$10,000
9	No additional contributions at the reporting threshold.			
10	No additional contributions at the reporting threshold.			
Total from top contributors				<b>\$55,969,120</b>









## Legislation, Regulations, Litigation: A Changing Legal Landscape

On the heels of three ethical scandals in California's State Senate, the Legislature introduced a flurry of legislation intended to tackle what has been termed "Sacramento's culture of corruption." Over 40 bills aimed at altering the Act were introduced in 2014. Ultimately, the Governor signed numerous bills that made substantial changes to the legal landscape surrounding campaign finance, lobbying, and conflicts of interest.<sup>2</sup>

Two of the most impactful bills, Assembly Bill 800 and Senate Bill 27, were designed to combat the rising trend of non-profits and other multi-purpose organizations being used to conceal the identities of campaign donors. Both bills were supported by the Commission.

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2. Appendix A contains a complete list of all bills affecting the Political Reform Act that were chaptered in 2014.



## AB 800

In the days leading up to the 2012 general election, two non-profits with no previous history of political contributions in California made contributions totaling \$15,000,000 to support Prop 32 and oppose Prop 30. The FPPC sued these entities in the California State Supreme Court to compel them to disclose the true source of the major contributions. In a special Sunday session days before the election, the Court ruled in favor of the FPPC and the non-profits were forced to reveal the Center to Protect Patient Rights as the original source of the contributions. Had the Court not chosen to hear the case on such an expedited timeline, vital information about who was funding ballot measures would have been withheld from voters until after the election.

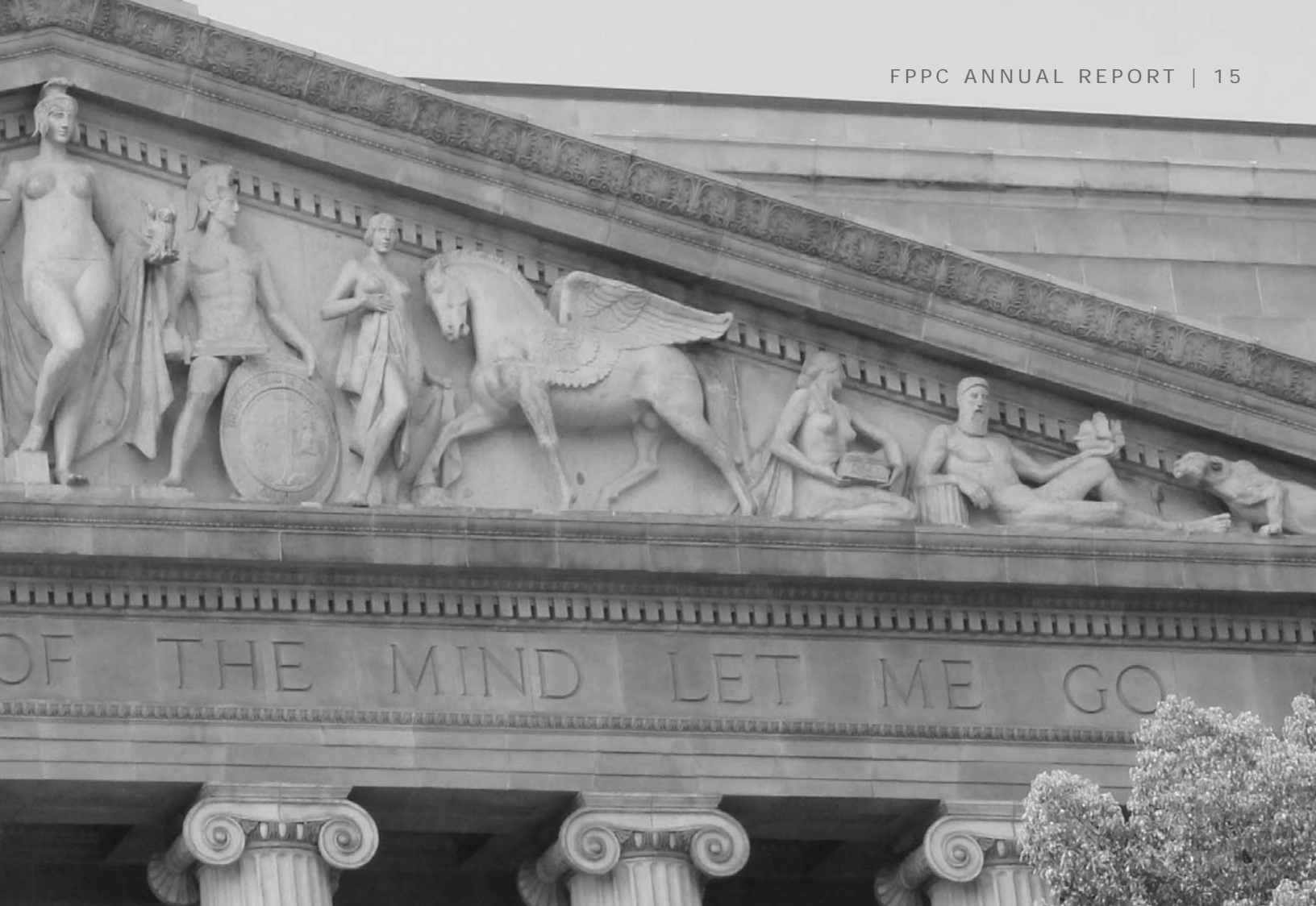
To prevent entities from attempting to exploit the court system's ability to process cases quickly on a compressed timeline, the Legislature passed and the

Governor signed AB 800. This bill grants the FPPC authority to use injunction power to compel disclosure from campaign committees during elections and giving pre-election FPPC civil actions preference in court.

Additionally, AB 800 made several other changes to the Act, including granting the FPPC authority to conduct discretionary audits of any campaign during an election. Prior to this bill's passage, the FPPC was unable to commence audits of committees until after the conclusion of the general election.

AB 800 represents a serious blow to individuals trying to conceal the identities of top donors and enhances the FPPC's ability to be proactive in making sure campaign finance laws are being complied with during the election, when they matter most.





## SB 27

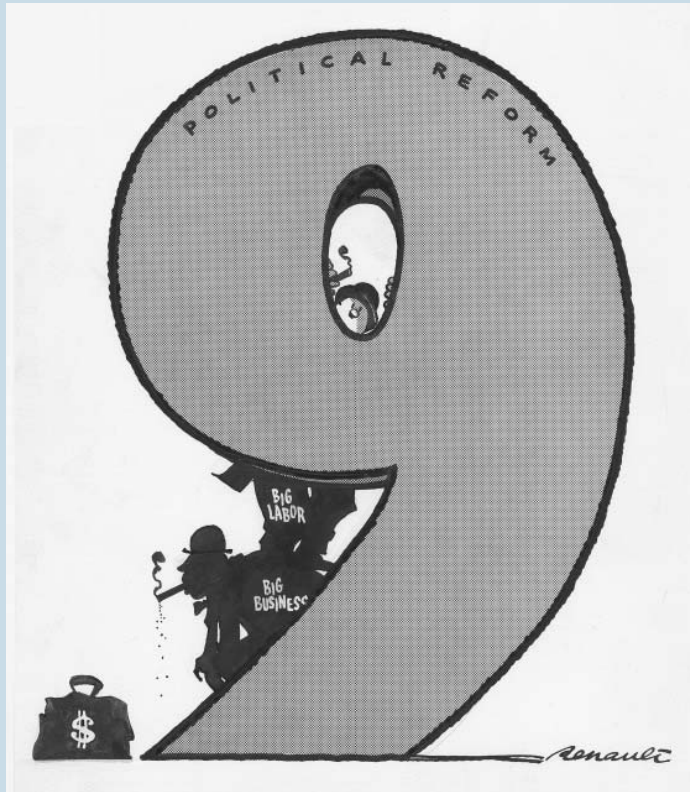
The national debate surrounding campaign finance continues to highlight the prevalence of undisclosed contributions from non-profit organizations, also known as “dark money.” In a direct response to the 2012 Arizona case, the FPPC sponsored SB 27. This measure requires the disclosure of donors to a non-profit or multi-purpose organization (MPO) if that group spends at least \$50,000 on political contributions in one year or more than \$100,000 over four consecutive years.

Before SB 27, non-profits and other MPOs with no history of political spending could make a onetime contribution in California without disclosing the identities of the donors. SB 27 closed this loophole, known as the “first bite of the apple,” which was the same provision exploited by the Arizona non-profits who attempted to mask the source of two independent expenditure contributions in the 2012 election. Closing this loophole helps prevent large networks of non-profits

from being used to conceal the identities of donors.

Additionally, the legislation mandates that state ballot measure committees and independent expenditure committees that support or oppose state candidates and raise \$1,000,000 or more for an election maintain and submit an accurate list of the committee’s top 10 contributors to the Commission for posting on the FPPC’s website. These lists are valuable tools offering voters a shortcut to see who is funding initiatives and independent expenditures in California.

SB 27 goes directly to the heart of disclosing contributions from non-profits and MPOs and requiring that the true sources of money spent in California elections are disclosed. Together with AB 800, these laws have catapulted California to being a national leader in the fight against “dark money.”



## Regulations

In 2013, the FPPC began a comprehensive review of regulations relating to conflicts of interests. The project was conceived in an attempt to develop a more concise and useful method to better guide and assist public officials subject to the Act's conflict of interest provisions. Throughout 2014, these efforts continued and rendered several noteworthy changes to the legal landscape surrounding conflicts of interest.<sup>3</sup> The Commission anticipates completing this undertaking in early 2015.

One of the most important changes of 2014 was the revision of the standards determining when a public official's decision may have a material financial effect on their real estate holdings. The Commission abandoned a long-standing test, known as the 500 foot/one penny rule, in favor of a more meaningful procedure for analyzing conflicts of interest. The new standard allows the Commission to analyze the potential for a conflict of interest, rather than just drawing a circle to determine the answer.

## Litigation

The FPPC constantly faces lawsuits regarding enforcement actions and legal interpretations of the Act. In 2009, one such case was filed threatening the core provisions of the Act's disclosure requirements.

### ProtectMarriage.Com et al v. Bowen

On January 9, 2009, an entity supporting Proposition 8, the 2008 initiative to prevent gay marriage, challenged the Act's campaign disclosure requirements on contributions to ballot measure committees as unconstitutional. Citing adverse actions against persons who supported Proposition 8 and alleging that some of these persons were identified through campaign contribution information made public as required by the Act, the plaintiffs sought to expunge the records of all of their contributors, protect their future contributors from the Act's disclosure provisions, and invalidate the Act's \$100 disclosure threshold for contributors to ballot measure committees.

On May 20, 2014, the Ninth Circuit Court ruled in favor of the FPPC and upheld the Act's \$100 threshold for disclosing contributions, declared the interest in California's post-election reporting as important, and found the Act's reporting requirements not unduly burdensome. Had the court ruled in favor of the plaintiffs, this case could have invalidated the core principles of the Act and may have been a major setback to disclosing campaign contributors.



3. Appendix B contains a complete list of all changes to regulations in 2014.



# Educational Outreach

Throughout its history, the FPPC has been dedicated to ensuring that candidates, public officials, and campaigns have resources available to help them comply with the Act. The FPPC offers dozens of fact sheets, guides, and other informational material as well as telephone and online advice lines for individuals to request basic advice regarding their responsibilities under the Act. The Commission also hosts a variety of seminars and webinars for local candidates, filing officials, campaign treasurers, and public officials to attend. In recent years, the Commission has expanded these educational efforts utilizing social media sites such as Facebook, Twitter, and YouTube to provide even greater opportunities for the regulated community to educate themselves.

For requests that are more complex in nature, the FPPC offers members of the public the opportunity to request formal advice from the Commission's attorneys. These letters often require thorough and thoughtful research and carry more legal significance than other types of advice because they may also protect requesters from enforcement actions.

## Government Code 1090

In 2014, the Commission issued the first advice letters relating to Government Code Section 1090 (1090), an area of law new to the FPPC's jurisdiction. Resulting from legislation signed by Governor Brown in 2013, Assembly Bill 1090, for the first time gave the FPPC the authority to provide written advice on 1090 conflict of interest issues, and the authority to civilly or administratively enforce violations of 1090. This law allows the FPPC to now provide advice and enforce a broader range of governmental ethics statutes related to conflicts of interest.



## FPPC Hosts Foreign Delegations

Over the course of the year, the FPPC was honored to host representatives from four foreign governments. Officials from the ethics agencies of Afghanistan, Pakistan, Sri Lanka, and Bosnia met with Commission staff to learn best practices and share experiences from their respective countries. The Commission has regularly participated in these types of collaborative programs in the past and looks forward to continuing to engage in these important open dialogues in the future.

## Outreach Statistics



# 12,650 Phone calls

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The FPPC Advice Line (1-866-ASK-FPPC) is open Monday through Thursday 9AM – 11:30AM. The FPPC also offers extended hours of operation in the days leading up to June and November Elections.



# 10,904 Emails

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Members of the public may submit emails to [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov) 24/7. Staff quickly responds to basic questions regarding compliance with the Act.



# 68 Presentations

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FPPC staff gave presentations to audiences of judges, filing officers, and a variety of public officials ranging from 40 – 600.



# 155 Tweets

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The FPPC highlights upcoming events, filing deadlines and other important dates to help ensure the public stays connected with the Commission.



# 215 Advice letters

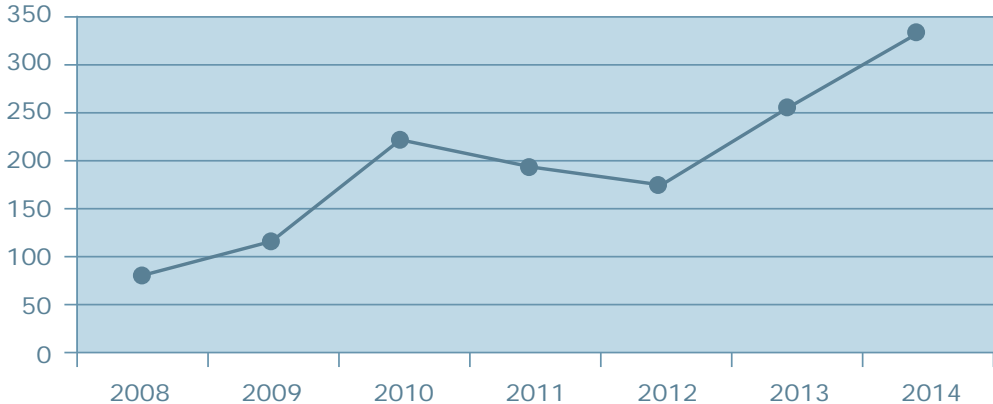
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Commission attorneys thoughtfully researched and authored more than 200 advice letters in 2014, a 20% increase from the previous year. 45 of these letters relate to Government Code Section 1090.

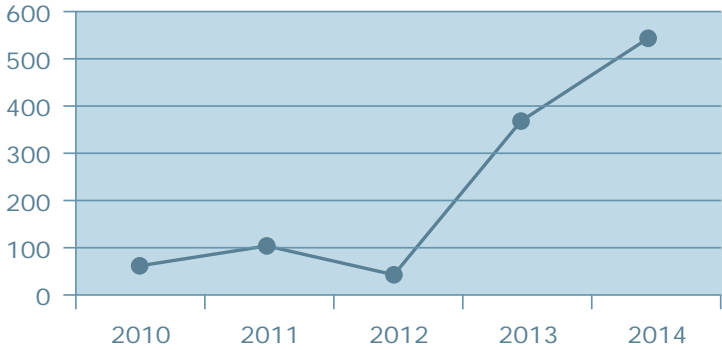


# Enforcement Statistics

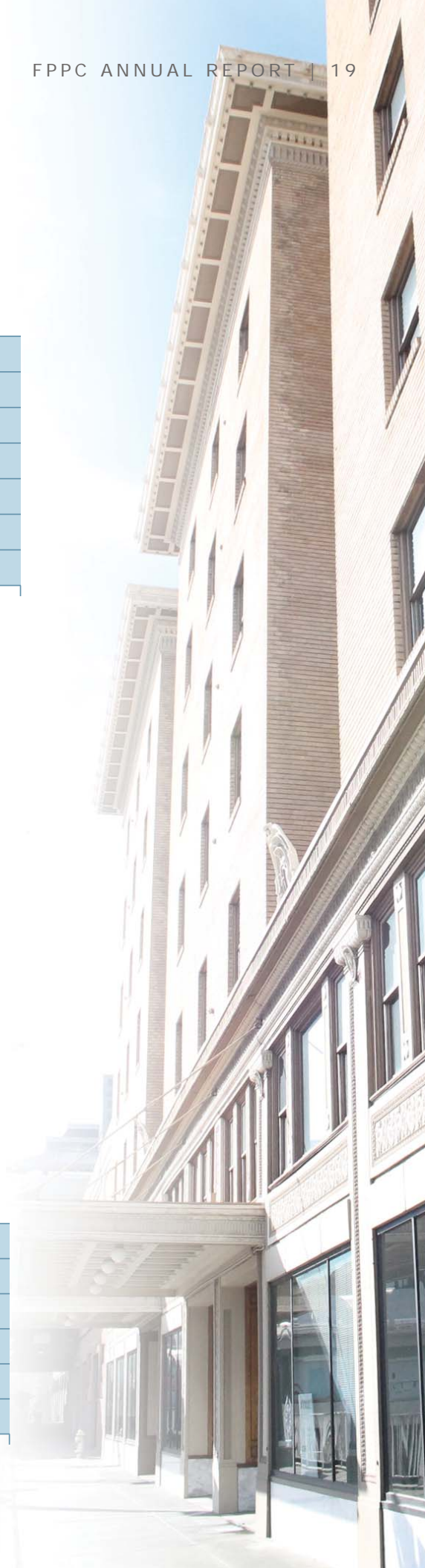
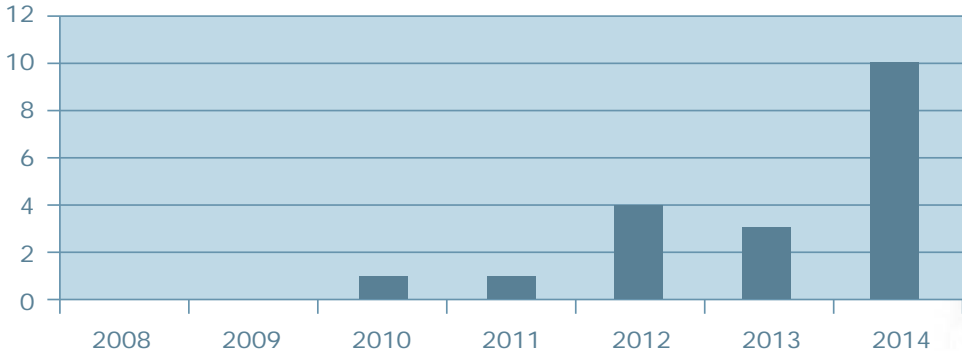
### Cases Prosecuted by Year



### Pro-Active Cases Opened by Year



### Money Laundering Cases by Year



# Major Cases

In addition to pro-active, pre-election cases, the Enforcement Division continues to focus on prosecuting serious violations of the Act. These types of cases require advanced investigative techniques and are more legally complex to prosecute.

Examples of cases that involve major violations of the Act and were prosecuted this year include:

## Pre-Election Pro-Active

### **David Hadley** *Over-the-Limit Contributions*

David Hadley, a candidate for the 66th District Assembly seat in the November 2014 election, improperly received campaign contributions prior to the November general election. The FPPC intervened and had the improper contribution returned well before the November general election. This action marks the first time the FPPC utilized the pre-election investigative provisions of AB 800, which permit the Commission to investigate campaign committees prior to elections. These provisions ensure that the Commission is permitted to take action to enforce campaign laws when it matters most – before voters head to the polls.

## Lobbying

### **Richard Ross** *Lobbyist Placing Legislators Under Personal Obligation*

Richard “Richie” Ross, a registered lobbyist and campaign consultant, was found to have violated the Act by placing public officials under personal obligation by having longstanding outstanding debt owed by Legislators, and then lobbying them on behalf of his clients. The action taken against Ross by the Commission was the first time that the Commission enforced the personal obligation law of the Political Reform Act.

### **Kevin Sloat** *Lobbyist Contributions*

Kevin Sloat, a registered lobbyist, was found to have violated the Act by giving campaign contributions to elected officials. Sloat agreed to pay a fine of \$133,500,

which is the largest fine ever paid for violating state lobbying regulation laws. The Sloat case sparked the development of SB 1441, which prohibits lobbyists from hosting fundraisers at their homes or offices.

## Campaign Money Laundering

### **Tom Berryhill** *Campaign Money Laundering*

Tom Berryhill, a State Senator for the 14th District, was found by the Commission to have committed serious and deliberate violations of the Act by laundering campaign contributions during the 2008 elections. The Enforcement Division discovered evidence of Senator Berryhill making contributions through two county political central committees – the Stanislaus Republican Central Committee and the San Joaquin County Republican Central Committee – to his brother, Bill Berryhill, without reporting the true source of the contributions. For money laundering, the Commission fined Senator Berryhill \$40,000.

### **Gary Husk, and Jamieson & Gutierrez, Inc.** *Campaign Money Laundering*

Gary Husk, a registered lobbyist in the state of Arizona, and his firm, Jamieson & Gutierrez, made a \$300 contribution to Jerry Sanders for San Diego Mayor through Edward Sanchez in 2005. Sanchez was also a registered lobbyist and an employee of Husk’s, and at the time of the donation, Husk had already donated the maximum contribution amount under San Diego’s campaign ordinance to Jerry Sanders for Mayor. Husk failed to disclose to the committee that he was the true source of the contribution, not Sanchez. For this violation of the Act, Gary Husk and his firm were fined \$5,000.

### **Andrew Hawkins Cohen and Archway Property Services, LLC** *Campaign Money Laundering*

Andrew Hawkins Cohen, the managing director of Archway Property Services, LLC, a San Francisco based apartment maintenance and property management firm, organized and perpetrated a campaign money laundering scheme to circumvent San Francisco’s local campaign contribution limits. Andrew Hawkins Cohen guided the President, contractors and employees from Archway Property Services, LLC to make eight separate contributions of \$500 to 2011 San Francisco Mayoral Candidates Phil Ting and Ed Lee. Cohen reimbursed the employees and contractors through funds of Archway Property Services, LLC following the contributions, and the true source of the contributions was not disclosed to the campaign committees. Andrew Hawkins Cohen and Archway Property Services, LLC were



fined the maximum penalty of \$5,000 per violation and \$40,000 in total.

#### **Yolo County Republican Party** *Campaign Money Laundering*

The Yolo County Republican Party, a political party committee, acted as an intermediary for contributions to a candidate in the 2010 elections. In early 2010, Charles and Ann Johnson gave the maximum contribution amount of \$13,000 each to the Damon Dunn for Secretary of State 2010 campaign committee for both the primary and general elections. Later in 2010, Charles and Ann Johnson gave contributions of \$17,000 each to the Yolo County Republican Party, and shortly thereafter the political party committee donated \$32,300 to the Dunn committee. Yolo County Republican Party failed to report to the Dunn committee the true source of the contribution and was fined \$5,000 for the violation.

#### **Santa Clara Republican Party** *Campaign Money Laundering*

The Santa Clara Republican Party, a political party committee, acted as an intermediary for contributions to a candidate in the 2010 elections. In early 2010, Charles and Ann Johnson gave the maximum contribution amount of \$13,000 each to the Damon Dunn for Secretary of State 2010 campaign committee for both the primary and general elections. Later in 2010, Charles and Ann Johnson gave contributions of \$17,000 each to the Santa Clara County Republican Party, and shortly thereafter the political party committee donated \$33,000 to the Dunn committee. Santa Clara County Republican Party failed to report to the Dunn committee the true source of the contribution, and was fined \$5,000 for the violation.

#### **Republican Party of Los Angeles County** *Campaign Money Laundering*

The Republican Party of Los Angeles County, a political party committee, failed to disclose the original source of contributions totaling \$32,400 to the Committee to Elect Rabbi Shifren, a candidate for the 26th District seat of the California State Senate in 2010. The Republican Central Committee of Los Angeles County filed a pre-election campaign statement certifying that it made the \$32,400 contribution to Committee to Elect Rabbi Shifren, while it had actually acted as an intermediary for these contributions. For three violations of the Act, the committee was fined \$15,000.

## Gift Violations

#### **Kevin Johnson, Mayor of Sacramento** *Statement of Economic Interests Non-Reporting*

Kevin Johnson, the Mayor of Sacramento, failed to properly identify the source of gifts of travel from the Walton Family Foundation that supported Stand Up, a charitable organization of which Johnson is the Founder and Board President. A grant was dispersed from the Walton Family Foundation to Stand Up for travel costs to further Stand Up's tax exempt, non-profit purpose. Although the portion of donations was earmarked for travel, Johnson reported the travel as a gift from Stand Up rather than the Walton Family Foundation. For misreporting the source of travel gifts, Johnson was fined \$1,000.

#### **Manuel Paul** *Receipt of Gift Over the Limit*

Manuel Paul, the Superintendent of the San Ysidro School District, accepted an over the limit gift while acting in his official capacity as Superintendent. Paul requested money from Loreto Romero, a contractor, to make contributions to three candidates in the 2010 San Ysidro School District Board of Education election. At the time of the request, Paul explained to Romero that the payment was necessary for Romero to be considered for future San Ysidro District building contracts. Romero gave \$2,500 to Paul for the campaigns in excess of the \$420 annual gift limit for 2010. Paul was fined \$5,000 for accepting the monetary gift in violation of the Act.

## Major Campaign Reporting

#### **Yocha Dehe Winton Nation** *Campaign Reporting*

Yocha Dehe Winton Nation, a major donor committee and lobbyist employer, hosted a series of golf tournament fundraisers on behalf of candidates for the State Legislature that exceeded applicable contribution limits. In addition, the Yocha Dehe Winton Nation also failed to timely disclose non-monetary contributions made to campaign committees for candidates for the State Legislature through hosting the aforementioned events. For four violations of the Act from 2009-2011, the Yocha Dehe Winton Nation was fined \$9,000.

## “California Lawyer Attorneys of the Year”

Former FPPC Chair Ann Ravel and the Commission’s Chief of Enforcement, Gary Winuk, received CLAY awards for their work on the 2012 campaign money laundering case that revealed a non-profit with connections to national organizations as the true source of two major illegal contributions.

In the weeks before the 2012 election, the Arizona-based non-profit Americans for Responsible Leadership (ARL) made an unprecedented \$11,000,000 contribution to a California PAC supporting

Proposition 32 and opposing Proposition 30. As a non-profit with 501(c)(4) status, the group was not required to disclose its donors under federal law. However, under the leadership and direction of former Chair Ann Ravel, the Commission commenced a proactive audit of ARL’s records. After the FPPC prevailed over ARL in the California Supreme Court, ARL admitted to acting as an intermediary for the true source of the contribution.

Further investigations by the FPPC and the California Department of Justice revealed a key non-profit in a national dark money network as the true source two major contributions,

totaling \$15,000,000, that were not reported correctly. The case concluded with the non-profit groups reaching a record civil settlement with the FPPC for \$1,000,000.



### Common Sense Voters, SF 2010; Vote for Mark Farrell for District 2 Supervisor, and Chris Lee Campaign Committee Coordination

Chris Lee was a campaign consultant for candidate-controlled committee Vote for Mark Farrell for District 2 Supervisor in 2010. While in his position as a campaign consultant, Lee coordinated with Common Sense Voters, SF 2010, regarding its setup, fundraising, and campaign planning. Lee had significant influence on the Common Sense Voters committee, and thus caused it to become a controlled committee of Mark Farrell. This was not disclosed on the committee’s statement of organization. Following this, Common Sense Voters committee issued mass mailers that failed to display the name of the candidate controlling the committee. For five violations, the Commission approved a \$14,500 fine.

### Priya Mathur and Priya Mathur for CalPERS Board 2014 Campaign Reporting

Priya Mathur, a member of the Board of Administration of the California Public Employees’ Retirement System, and her controlled committee, Priya Mathur for CalPERS Board 2014, failed to file four required campaign statements from 2012-2013. For failing to timely file her campaign statements Mathur was fined \$4,000.

## Collections Program Activity

The Enforcement Division actively and aggressively pursues all cases that go into collections. Currently, there are over **86** cases being actively pursued through tax state intercepts, civil judgments, demand letters, and property tax liens.

## Audits

The Enforcement Division opens a number of discretionary audits as prescribed by the Act. Additionally, the Division also reviewed **48** Franchise Tax Board (FTB) audit referrals, of which **24** received warning letters and **14** were prosecuted, resulting in fines approved by the Commission.



# Appendix A

## 2014 Legislation

Below are summaries of the legislative changes made to the campaign provisions of the Political Reform Act (Act) in 2014. The effective dates for the changes are included in each of the summaries. To view the full text of the bills, visit: <http://leginfo.ca.gov/bilinfo.html>.

### Legislative Changes

**Audits.** The one-year deadline for the Franchise Tax Board (FTB) to complete audit reports for audits conducted on a random basis is extended to two years. In addition, the Commission and the FTB (at the direction of the Commission) may audit any record required to be maintained under the Act in order to ensure compliance with the Act prior to an election, even if the record or report is one that has not yet been filed. The Commission is also authorized to seek injunctive relief in a superior court to compel disclosure consistent with the Act and the court would be required to grant expedited review of an action filed pursuant to this provision. (AB 800 (Gordon) – Chapter 9, Statutes of 2014, effective April 3, 2014.)

**Lobbyist Home Fundraisers.** Previously under the Act, if someone had a fundraiser in his or her home or office, the costs incurred by the occupant were not considered to be a contribution so long as the total cost of the event was \$500 or less. Lobbyists and lobbying firms may no longer take advantage of this fundraiser exception. The definition of “contribution” was amended to include a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist; therefore, prohibiting a lobbyist from holding a fundraiser in his or her home for a candidate seeking election to a governmental agency that the lobbyist is registered to lobby. The same prohibition applies to lobbying firms holding fundraisers at their offices. (SB 1441 (Lara) – Chapter 930, Statutes of 2014 and AB 1673 (Garcia) – Chapter 882, Statutes of 2014, effective January 1, 2015.)

**Multipurpose Organizations.** Nonprofits and other multipurpose organizations that are actively spending in California state and local elections must report those expenditures and the sources of the funds used to make the expenditures. The “first-bite-of-the apple” rule, which nonprofits and other multipurpose organizations were previously subject to, was eliminated. (See the “Regulatory Changes” section below.) Under the new



rules, a nonprofit or other multipurpose organization must register as a recipient committee and disclose its donors if it: 1) receives donations of \$1,000 or more specifically for political purposes; 2) makes contributions or expenditures of more than \$50,000 in a period of 12 months; or, 3) makes contributions or expenditures of more than \$100,000 in a consecutive four-year period. For additional information about the new rules, refer to the Multipurpose Organizations Reporting Political Spending fact sheet. (SB 27 (Correa) – Chapter 16, Statutes of 2014, effective July 1, 2014.)

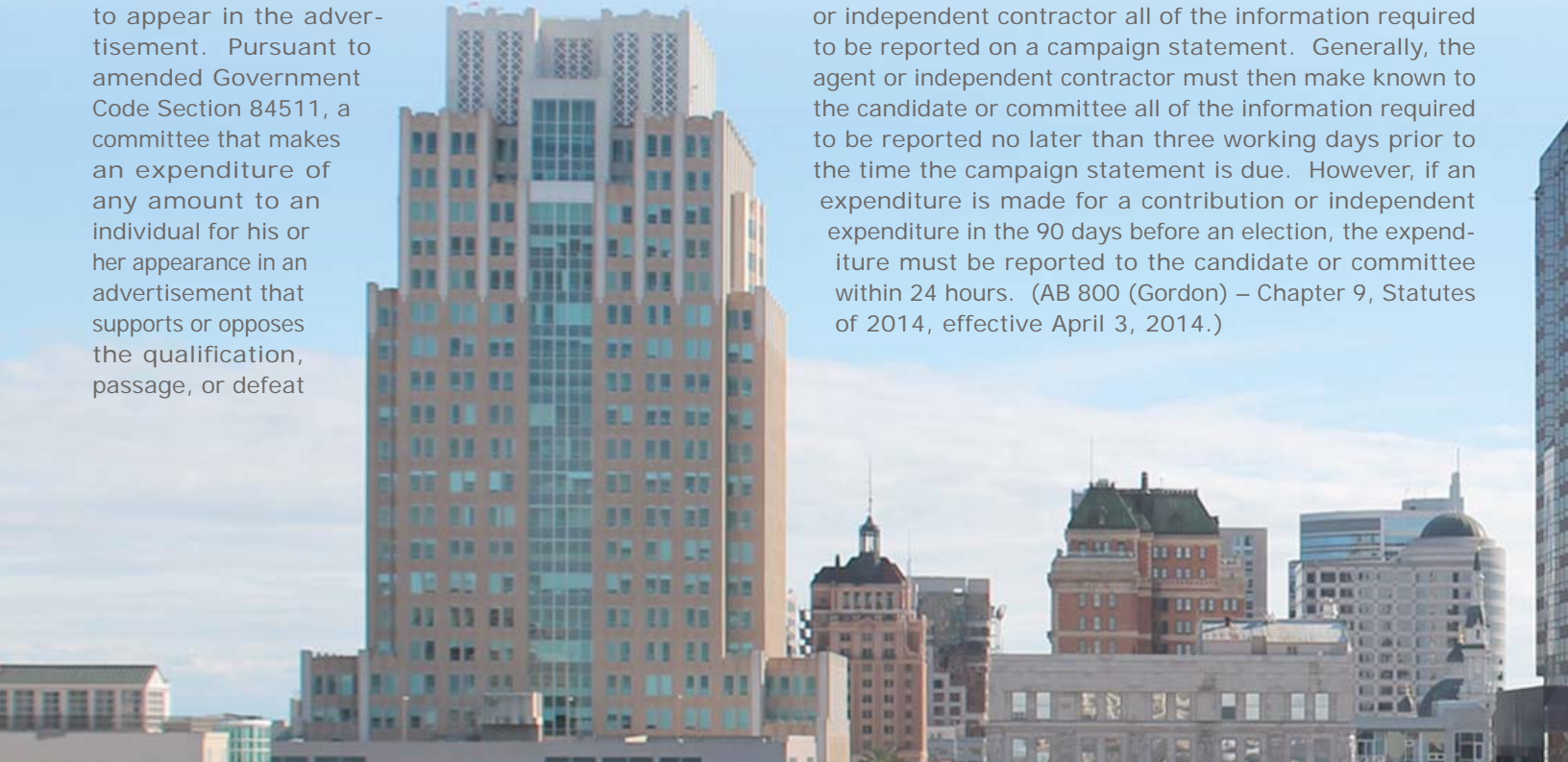
**Notification to Contributors of Filing Obligations.** Currently, a candidate or committee that receives contributions of \$5,000 or more must notify the contributor within two weeks that the contributor may be required to file campaign reports as a major donor. Pursuant to amended Government Code Section 84105, a candidate or committee that receives a contribution of \$10,000 or more in the 90 days prior to an election must provide the notification to the contributor within one week. The notifications sent by the candidate or committee must also include a reference to the filing requirements for nonprofits and other multipurpose organizations under Government Code Section 84222. (SB 27 (Correa) – Chapter 16, Statutes of 2014, effective July 1, 2014.)

**Paid Spokespersons.** Currently, a committee that makes an expenditure of \$5,000 or more to an individual for his or her appearance in an advertisement to support or oppose the qualification, passage, or defeat of a ballot measure must file a report (Form 511) within ten days and must also include a statement in the advertisement that notifies viewers that the individual was paid to appear in the advertisement. Pursuant to amended Government Code Section 84511, a committee that makes an expenditure of any amount to an individual for his or her appearance in an advertisement that supports or opposes the qualification, passage, or defeat

of a ballot measure and that states or suggests that the individual is a member of an occupation that requires licensure, certification, or other specialized, documented training as a prerequisite to engage in that occupation must also file the Form 511 within ten days. In addition, the committee must include a statement in the advertisement that notifies viewers that the individual was paid to appear in the advertisement and may not necessarily be a member of the occupation portrayed in the advertisement. However, if the individual in the advertisement is actually a member of the occupation portrayed, the committee may omit this disclaimer and shall maintain documentation of the individual's license or certification for the occupation. (AB 510 (Ammiano) – Chapter 868, Statutes of 2014, effective January 1, 2015.)

**Restitution Fines.** With limited exceptions, campaign funds may not be used to pay or reimburse fines, penalties, judgments, or settlements. Amendments to Government Code Section 89513 prohibit the use of campaign funds to pay a restitution fine imposed under Penal Code Section 86, which subjects any member of the Legislature or any member of the legislative body of a city, county, city and county, school district, or other special district who asks for or receives a bribe in exchange for influence over his or her official action to imprisonment in a state prison and imposes prescribed restitution fines based on whether a bribe has actually been received. Penal Code Section 86 was amended to increase the restitution fines to twice the original amount. (AB 1666 (Garcia) – Chapter 881, Statutes of 2014, effective January 1, 2015.)

**Subcontractor Payments.** A subagent or subcontractor who provides goods or services to or for the benefit of a candidate or committee must make known to the agent or independent contractor all of the information required to be reported on a campaign statement. Generally, the agent or independent contractor must then make known to the candidate or committee all of the information required to be reported no later than three working days prior to the time the campaign statement is due. However, if an expenditure is made for a contribution or independent expenditure in the 90 days before an election, the expenditure must be reported to the candidate or committee within 24 hours. (AB 800 (Gordon) – Chapter 9, Statutes of 2014, effective April 3, 2014.)





**Surplus Funds.** Surplus funds are subject to restrictions as outlined in the Act. “Surplus campaign funds” were previously defined as campaign funds that were under the control of a former candidate or former elected officer as of the date of leaving elective office or the end of the postelection reporting period following the defeat of the candidate for elective office, whichever occurred last. The new rules increase the time at which campaign funds become surplus campaign funds to 90 days following either the date of leaving elective office or the end of the postelection reporting period following the defeat of a candidate, whichever occurs last. For example, leftover funds from the November 4, 2014 election become surplus on March 31, 2015, 90 days after the December 31, 2014 post-election reporting period. (AB 800 (Gordon) – Chapter 9, Statutes of 2014, effective April 3, 2014.)

**Top Ten Contributor Lists.** A committee primarily formed to support or oppose a state candidate or a state ballot measure that raises \$1,000,000 or more must submit to the Commission a list of the committee’s top ten contributors of \$10,000 or more, and the Commission must post the lists on its website. If the \$1,000,000 threshold is met during the 16 days prior to the election, the initial list must be submitted within 24 hours (or the next business day). If the \$1,000,000 threshold is met at any time other than during the 16-day period before the election, the initial list must be submitted within three business days. The committees must provide an updated list each time specified changes are made. (See “Regulatory Changes” below.) The Commission must also post on its website an aggregate list of the top ten contributors supporting and opposing each state ballot measure. (SB 27 (Correa) – Chapter 16, Statutes of 2014, effective July 1, 2014.)

**Use of Campaign Funds to Pay Fines.** The expenditure of campaign funds of any amount to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in a personal benefit to the candidate or officer is prohibited if it is determined that the expenditure was not reasonably related to a political, legislative,

or governmental purpose. The same prohibition applies with respect to a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in a substantial personal benefit (more than \$200) to the candidate or officer if it is determined that the expenditure was not directly related to a political, legislative, or governmental purpose. (AB 1692 (Garcia) – Chapter 884, Statutes of 2014, effective January 1, 2015.)

**Use of Campaign Funds to Pay Spouse for Services.** The Act currently prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation for services rendered in connection with fundraising from campaign funds held by a controlled committee of the officer or candidate. The amended provision instead prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation in exchange for any services rendered from campaign funds held by a controlled committee of the officer or candidate. (AB 2320 (Fong) – Chapter 902, Statutes of 2014, effective January 1, 2015.)



# Appendix B

## 2014 Regulations

Below are summaries of the regulatory changes made to the Political Reform Act (Act) in 2014. To view the full text of the FPPC regulations, visit: <http://www.fppc.ca.gov/index.php?id=52>

### April Commission Meeting

#### **18704.2 Determining Whether Directly or Indirectly Involved in a Governmental Decision: Interest in Real Property (Repealed); 18705.2 Material Financial Effect on a Real Property - Standard (Amended)**

The Commission repealed Regulation 18704.2 regarding the directly involved/ indirectly involved step for the real property materiality analysis and adopted amendments establishing new standards for materiality on government decisions affecting real property. The regulation now lists factors that will be determined to affect property to a material degree; modifies the 500 foot rule to allow the Commission to provide advice that there is no conflict when there are sufficient facts to indicate that there will be no reasonably foreseeable measurable impact; eliminates the one-penny rule; and applies a general test of a reasonably prudent person, using due care and consideration under the circumstances, to believe that the governmental decision was of such a nature that its reasonably foreseeable effect would influence the market value of the official's property.

### July Commission Meeting

#### **18700.3 Parent-Subsidiary, Otherwise Related Business Entity: Defined (Adopted)**

#### **18703.1 Economic Interest Defined: Business Entities (Repealed)**

The Commission repealed Regulation 18703.1 but moved the former provisions, with clarifying amendments to new Regulation 18700.3, which provides the definition of Parent-Subsidiary, and Otherwise Related Business Entity as required under Section 82034. The primary effect of

the Commission's action was to eliminate the separate regulatory created "economic interest" in parent and subsidiary organizations.

#### **18215 Contribution (Amended)**

Amendments were adopted to delete the "first-bite-of-the-apple" rule, which previously required disclosure of donors by a multipurpose organization for a political expenditure if the organization had made a previous contribution or expenditure of \$1,000 or more. The rule created a presumption that donors knew their contributions to the organization might be used for political purposes given the organization's history of political expenditures. Amended Regulation 18215 directs readers to the new multipurpose organization disclosure rules in Government Code Section 84222 and Regulation 18422. (Regulation 18215, amendments effective August 29, 2014.)

#### **18412 Identifying Funding Sources for Contributions and Independent Expenditures Made by Certain Tax Exempt Organizations (Repealed)**

Prior to the enactment of SB 27, Regulation 18412 was adopted to provide rules for nonprofit organizations disclosing the sources of funds used for political expenditures. The regulation specified that nonprofit organizations were required to identify those donors who knew their funds would be used for political purposes and to identify other donors using the "last in, first out" (LIFO) accounting method. The donor disclosure rules are now included in Government Code Section 84222 and Regulation 18422 (see below); therefore, Regulation 18412 was repealed. (Regulation 18412, repeal effective August 29, 2014.)

#### **18422 Multipurpose Organization Political Activity Transparency (Adopted)**

A regulation was adopted to provide the following rules for multipurpose organizations: 1) committee name requirements; 2) special requirements for committees that terminate automatically (calendar year filers); 3) requirements for identifying donors as contributors using the "last in, first out" (LIFO) accounting method; 4) requirements for notifying contributors (i.e., major donors) that they may have filing obligations; 5) requirements for a multipurpose organization that identifies another multipurpose organization as a contributor (multi-layer reporting). (Regulation 18422, effective August 29, 2014.)



### **18427.1 Notification to Contributors of Filing Obligations** (Amended)

Amendments were adopted to include the new requirement for a candidate or committee that receives a contribution (s) of \$10,000 or more in the 90 days prior to an election to provide notification to the contributor *within one week* that the contributor may be required to file campaign reports. The sample language for the notification was amended to include information about the filing requirements for non-profits and other multipurpose organizations under Government Code Section 84222.

### **18422.5 Top Contributor Disclosure by Committees Primarily Formed for State Ballot Measures or Candidates** (Adopted)

SB 27 requires state primarily formed ballot measure committees and independent expenditure committees that raise over \$1,000,000 for or against a state candidate to submit current lists of their top 10 contributors to the FPPC. The lists provide summary information to the public and are posted on the FPPC's website. The Commission adopted rules for the submission and posting of these lists in Regulation 18422.5. In a very short time frame, the committees, the FPPC and the Secretary of State successfully got this top contributor information filed and available to the public. The legislation became effective in July and before the November 2014 general election, this new resource was posted on the FPPC's website, at minimal cost.

## **November Commission Meeting**

### **18545 Contribution Limit and Voluntary Expenditure Ceiling Amounts** (Amended)

### **18703.4 Economic Interest, Defined: Source of Gifts** (Amended)

### **18730 Determining Whether an Economic Interest Is Directly or Indirectly Involved in a Governmental Decision** (Amended)

### **18940.2 Gift Limit Amount** (Amended)

Adoption of Amendments to Regulations 18545, 18703.4, 18730 and 18940.2 – Biennial Adjustments of Gift Limit, Contribution Limits and Voluntary Expenditure Ceilings. These amendments reflect the required biennial adjustments of the Act's gift limit, contribution limits, and voluntary expenditure ceilings, based on changes in the consumer price index. The adjustments are for the period of January 1, 2015 through December 31, 2016.

### **18704 Determining Whether an Economic Interest Is Directly or Indirectly Involved in a Governmental Decision** - (Amended)

### **18704.1 Determining Whether Directly or Indirectly Involved in a Government Decision; Sources of Income, Sources of Gifts** (Amended)

### **18705.1 Materiality Standard: Financial Interest in Business Entities** (Amended)

The Commission adopted new materiality standards for governmental decisions involving business entity interests by eliminating the directly involved/indirectly involved step under Regulation 18704 and 18704.1 and providing new standards in Regulation 18705.1. The new standards list certain types of decisions that establish materiality (similar to the previous directly involved test), create a minimum cumulative threshold of \$1,000 to eliminate minor decisions, provide an exception for travel payments made on government business, and eliminate the monetary thresholds formerly in place, replacing them with a general reasonable person standard that the decision will have an impact of the value on the business interest.

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