



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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MEMORANDUM

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

From: Hyla P. Wagner, General Counsel
Valentina Joyce, Commission Counsel

Subject: Regulation 18404.2: Administrative Termination

Date: May 29, 2015

Overview

Section 84214 of the Political Reform Act (the “Act”)¹ requires committees and candidates to terminate their filing obligation pursuant to regulations adopted by the Commission. Regulation 18404.1, adopted in 2002, sets forth the procedure for termination. Nonetheless, many “recipient committees”² that are no longer engaged in campaign activity fail to terminate pursuant to the regulation and mistakenly discontinue filing required campaign statements. Regulation 18404.2, adopted in 2012, provides a mechanism by which the Commission itself can terminate a recipient committee - an “administrative termination.” This proposal seeks to expand the grounds to administratively terminate inactive recipient committees.

Problem with Current Law

Inactive recipient committees that do not file for termination often trigger multiple complaints and referrals for their continual failure to file campaign statements. Expanding the criteria for administrative termination will benefit these inactive or forgotten committees because officially closing them ensures that they will not accrue the \$50 annual committee registration fee year after year, and will not be subject to actions for failure to file campaign statements. It will also reduce the burden on the Commission, which must review the duplicative complaints and referrals, and similarly reduce the burden at the local level, on local filing officers.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² A recipient committee is any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. (Section 82013(a).)

Since adoption of Regulation 18404.1 the number of referrals from the Secretary of State of committees failing to file campaign statements has skyrocketed. This increase stems largely from the 2013 enactment of an annual \$50 registration fee. Until then, non-filing committees were more difficult to identify. Now, with a system for tracking committees that fail to pay the fee, the Secretary of State can more easily spot committees that have failed to file campaign statements.

The Proposed Amendment

The proposed amendment would allow staff to more quickly and efficiently process the increased number of administrative terminations by broadening the circumstances under which a committee may be administratively terminated. Currently, the only basis for administratively terminating a committee is that the committee has not filed a campaign statement in the previous 12 months and had an ending cash balance of \$3,000 or less on its last campaign statement.

The proposed regulation would permit the Chief of Enforcement to administratively terminate a recipient committee on the following additional grounds, if it had failed to:

- (1) file a campaign statement in the previous 12 months where the committee had an ending cash balance of \$5,000 or less on its last campaign statement, and the committee owes \$2,000 or more to the controlling candidate;
- (2) file a campaign statement in the previous 48 months; or
- (3) respond to the Enforcement Division's reasonable efforts to contact the committee regarding its failure to file campaign statements or pay annual fees.

If a committee wishes to remain active after receiving the notice of termination it may do so by sending a written objection. A terminated committee may be reinstated by request and filing delinquent campaign statements and paying any outstanding fees or fines.

Existing Regulation 18404.2 provides that the Executive Director may administratively terminate a recipient committee under specified criteria. The amended version provides that the Chief of Enforcement, rather than the Executive Director, may do so because the Enforcement Division actually performs this task. The Enforcement Division receives all the nonfiler referrals from the Secretary of State, determines which committees meet the criteria and closes them.

Staff Recommendation

The proposed revised regulation gives the Commission more occasions to administratively terminate inactive committees without depriving the committees of the opportunity to stop the termination or be reinstated after termination. Staff recommends the Commission adopt the amendment to Regulation 18404.2.

Attachments:

- 1) Section 84214
- 2) Regulation 18404.1
- 3) Proposed Regulation 18404.2 (amendment)