

SUBJECT: **SUPPLEMENTAL REPORT RE: ENFORCEMENT OF GOVERNMENT ETHICS VIOLATIONS**

INITIATED BY: CITY ATTORNEY'S OFFICE
(Christi Hogin, Assistant City Attorney)

PREPARED BY: CITY ATTORNEY'S OFFICE
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STATEMENT OF THE SUBJECT:

This report outlines the methods by which government ethics regulations may be enforced.

RECOMMENDATION:

Receive and file.

DISCUSSION: Enforcement of government ethics regulations may take one of several forms.

- A. Violation of any ethics regulation codified in the WHMC is a misdemeanor, except where the WHMC makes such violation an infraction.¹ A misdemeanor violation of the WHMC is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for a period not exceeding six months, or both.² Infractions are punishable by progressive fines: \$100 for the first violation; \$200 for the second violation; and \$500 for the third violation.³
- B. The portion of any contribution that exceeds the campaign contribution limits permitted by the WHMC must be remitted to the City and used for programs that enhance voter education and participation in elections.⁴
- C. Specific provisions of the WHMC are also subject to enforcement under the City's Administrative Penalty Procedures. Administrative penalties are set forth in a penalty schedule established by

¹ WHMC § 1.08.010(a).

² *Id.*

³ WHMC § 1.08.010(b).

⁴ WHMC § 2.76.070.

resolution of the City Council and are assessed by means of an administrative citation issued by an enforcement officer.⁵

- D. Violation of any provision of the Political Reform Act may be prosecuted as a misdemeanor.⁶ A misdemeanor violation of the Political Reform Act is punishable by a fine of up to ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully gave, received or used. The City Prosecutor prosecutes violations of the WHMC.
- E. Additionally, a person convicted of a misdemeanor under the Political Reform Act may not run for elective office or act as a lobbyist for four years after the date of conviction unless a court determines otherwise.⁷
- F. The Attorney General and District Attorney have sole authority to pursue criminal prosecution under the Political Reform Act; however, other persons such as residents of the jurisdiction may pursue civil prosecution for violations of the Act.⁸ Civil penalties can be as high as ten thousand dollars (\$10,000), three times the amount not reported, or up to three times the value of the benefit to a public official who failed to disqualify him or herself from an official decision when required to do so.⁹
- G. Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations of or to compel compliance with the Political Reform Act.¹⁰ A court may restrain the execution of an official action related to a violation or set the official action aside as void.¹¹
- H. The Fair Political Practices Commission may investigate possible violations of the Political Reform Act on its own initiative or upon receipt of a sworn complaint of any person.¹² If the Commission finds probable cause to believe that the Act has been violated, it will conduct a hearing¹³ and, if it finds that a violation has occurred, the Commission may impose administrative penalties including a \$5,000 fine per violation, cease and desist orders, and orders to file reports.¹⁴

⁵ WHMC § 1.08.010(e)-(f).

⁶ Gov. Code § 91000 *et seq.*

⁷ Gov. Code § 91002.

⁸ Gov. Code § 91004.

⁹ Gov. Code §§ 89521, 91000, 91005(b).

¹⁰ Gov. Code § 91003(a).

¹¹ Gov. Code § 91003(b).

¹² Gov. Code § 83115.

¹³ Gov. Code § 83116.

¹⁴ *Id.*

- I. The statute of limitations for civil and criminal enforcement actions is four years from the date of violation and five years from the date of violation for administrative actions brought by the Fair Political Practices Commission.¹⁵

Attachments: None.

¹⁵ Gov. Code §§ 91000(c), 91000.5, 91011(b).