

# THE SUTTON LAW FIRM

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SAN FRANCISCO  
ETHICS COMMISSION

May 29, 2009

BY \_\_\_\_\_

Scott Hallabrin, Esq.  
Fair Political Practices Commission  
428 J St., Ste. 800  
Sacramento, CA 95814

RE: Request for Advice

Dear Mr. Hallabrin:

Our firm represents several San Francisco officials and candidates who are currently running for state office, or who may do so in the future, and we respectfully request advice regarding their campaign committee filing obligations under California Government Code section 83114(b). By copy of this letter, we are also asking the San Francisco Ethics Commission for advice because the issue concerns both California and San Francisco law, and respectfully request that the two agencies coordinate their responses to our advice request.

Newly enacted FPPC Regulation 18405 (copy enclosed) requires a local elected officer who is also a candidate for elective state office to file a copy (not an original) of his or her state campaign's pre-election and semi-annual reports (FPPC Form 460) with his or her local filing officer.<sup>1</sup> San Francisco Campaign and Governmental Conduct Code section 1.112(a) (copy enclosed) requires any committee that is required to file a campaign statement with the Ethics Commission to "file at the same time a copy of the statement or report in electronic format with the Ethics Commission." Subsection (b) specifies that a committee is subject to the electronic filing requirements if it:

- (1) must file a statement of organization under City and state law;
- (2) is a candidate controlled committee, or is formed or exists primarily to support or oppose a candidate, or a ballot measure which is being voted on only in San Francisco; or is a general purpose committee active only in San Francisco; and

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<sup>1</sup>We understand that this new regulation will not take effect until late June or early July.

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(3) receives \$5,000 or more in contributions, or makes \$5,000 or more in independent expenditures, in a calendar year.

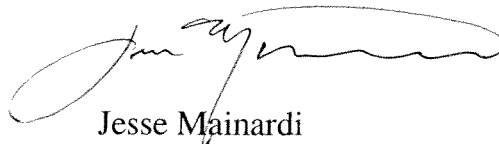
Our questions are thus:

1. Do the state's new cross-filing rules and/or San Francisco law require a San Francisco elected official who is also a candidate for state elective office to file copies of his or her state committee's pre-election and semi-annual campaign reports electronically with the Ethics Commission (assuming that the state campaign receives \$5,000 or more in contributions in a calendar year)?

2. Do these new rules and/or San Francisco law require such an official to file electronic copies of his or her San Francisco committee's reports with the Secretary of State?

Thank you for your consideration of these questions. We ask that you provide a response within the 21-day deadline of California Government Code section 83114, and in no event later than mid-July, before the mid-year filing deadline. If you need more information in order to render advice on this question, please contact us immediately.

Sincerely,



Jesse Mainardi

cc: John St. Croix  
JAM/lc  
#1011.05

**SEC. 1.112. ELECTRONIC CAMPAIGN DISCLOSURE.****(a) FILING ELECTRONIC CAMPAIGN STATEMENTS.**

(1) **Filing Electronic Copies of Campaign Statements.** Whenever any committee that meets the requirements of Subsection (b) of this Section is required by this Chapter or the California Political Reform Act (Government Code Section 81000 et seq.) to a campaign disclosure statement or report with the Ethics Commission, the committee shall file at the same time a copy of the statement or report in an electronic format with the Ethics Commission, provided the Ethics Commission has prescribed the format at least 60 days before the statement or report is due to be filed.

(2) **Continuous Filing of Electronic Statements.** Once a Committee is subject to the electronic filing requirements imposed by this Section, the Committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the Committee files a termination statement pursuant to this Chapter and the California Political Reform Act (Government Code Section 81000 et seq.).

(3) **Disclosure of Expenditure Dates.** All electronic statements filed under this Section shall include the date any expenditure required to be reported on the statement was incurred, provided that the Commission's forms accommodate the reporting of such dates.

**(b) COMMITTEES SUBJECT TO ELECTRONIC FILING REQUIREMENTS.** A Committee is subject to this Section if the Committee is: (1) required to file a statement of organization under this Chapter and the California Political Reform Act (Government Code Sections 81000 et seq.); and (2) is controlled by a candidate, or is formed or exists primarily to support or oppose a candidate, or is formed or exists primarily to support or oppose a ballot measure which is being voted on only in the City and County, or is a general purpose Committee active only in the City and County; and (3) receives contributions, or makes independent expenditures, totaling \$5,000.00 or more in a calendar year.

(Added by Proposition O, 11/7/2000; amended by Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 228-06, File No. 060501, App. 9/14/2006)

(Former Sec. 1.112 was added by Ord. 114-76, App. 4/2/76; amended by Ord. 386-95, App. 12/14/95; renumbered by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered by Proposition O, 11/7/2000)

1 Adopt 2 Cal. Code Regs. Section 18405 to read:

2 **§ 18405. Candidates With Multiple Controlled Committees.**

3 (a) Multiple Controlled Committees.

4 (1) If a candidate or elected officer controls more than one committee for the  
5 purpose of election to office, including committees established for different terms of the  
6 same elective office or for a different elective office, the candidate or elected officer  
7 shall, in addition to any other requirements related to the filing of campaign statements,  
8 file campaign statements for each of these committees on the dates the candidate or  
9 elected officer is required to file preelection statements under Sections 84200.5, 84200.7  
10 and 84200.8 in connection with his or her election to office. Further, ~~the~~ **a candidate or**  
11 elected officer shall, in addition to any other requirements related to the filing of  
12 campaign statements, file campaign statements for any other committee he or she  
13 controls, including an officeholder account committee, a legal defense fund committee, or  
14 a ballot measure committee, on the dates the candidate or elected officer is required to  
15 file preelection statements under Sections 84200.5, 84200.7 and 84200.8 in connection  
16 with his or her election to office.

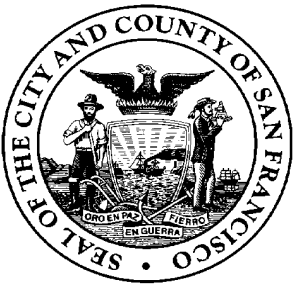
17 (2) If a candidate or elected officer is required to file a supplemental preelection  
18 or independent expenditure report under Sections 84202.5 or 84203.5, only the  
19 committee(s) that made the contributions or independent expenditures in connection with  
20 the election are required to file the supplemental report; another committee controlled by  
21 the candidate or elected officer which made no contributions or independent expenditures  
22 in connection with the election is not required to file a supplemental preelection or  
23 independent expenditure report.

1           (b) Seeking Office in ~~Another~~ **More Than One** Jurisdiction.

2           (1) When an individual is simultaneously a candidate for elective state office and  
3 elective office in a local government agency, or for elective office in two different local  
4 jurisdictions, he or she shall, in addition to any other requirements relating to the filing  
5 of campaign statements, file campaign statements for all committees he or she controls  
6 with the Secretary of State and with the local filing officer both jurisdictions at the  
7 locations specified in Section 84215 on the dates the candidate is required to file  
8 semiannual statements under Section 84200 and preelection statements under Sections  
9 84200.5, 84200.7 and 84200.8. The candidate or elected officer shall file the originally  
10 signed campaign statement with the relevant jurisdiction (e.g., state committee campaign  
11 statement with Secretary of State, city committee campaign statement with local filing  
12 officer) and shall file a copy of the campaign statement with the other jurisdiction  
13 location(s).

14           (2) The cross-filing requirements in paragraph (b)(1) applicable to a candidate or  
15 elected officer seeking office in ~~another~~ **more than one** jurisdiction do not apply to late  
16 contribution reports under Section 84203, late independent expenditure reports under  
17 Section 84204, election cycle and \$5,000 reports under Section 85309, or ballot measure  
18 contribution and expenditure reports under Section 84204.5.

19 NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 84200,  
20 84200.5, 84200.7, 84200.8, 84215, 82016, Government Code.



# ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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June 9, 2009

Jesse Mainardi, Esq.  
Sutton Law Firm  
150 Post Street, Suite 405  
San Francisco, CA 94108

Dear Mr. Mainardi:

Thank you for your letter of May 29, 2009, in which you requested advice from the Fair Political Practices Commission ("FPPC") and Ethics Commission regarding electronic filing requirements of committees that must file reports in light of recently approved Regulation 18405. As you know, among other things, Regulation 18405 requires an individual who is a local elective officer and who simultaneously runs for a state elective office to file an originally signed state committee campaign statement with the Secretary of State, and a copy of that campaign statement with the Ethics Commission. *See* Regulation 18405(b)(1), approved by the FPPC on May 21, 2009.

The Ethics Commission does not have the authority to determine whether Regulation 18405 requires the electronic filing of campaign statements – you have appropriately sought guidance from the FPPC on this issue. However, local law does not require that a candidate's state committee file electronically with the Commission when it submits a copy of its campaign statement to the Commission.

Please let me know if you have questions.

Sincerely,

Mabel Ng  
Deputy Executive Director

cc: Scott Hallabrin, Esq.

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