

August 5, 2014

Gary Winuk, Chief
Enforcement Division
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814



Re: Formal Complaint Against Martha Guzman-Aceves, aka Martha Guzman;
Formal Complaint Against Governor's Office for Failure To Maintain Or
Provide Disclosure of FPPC Form 700 Reports]

Mr. Winuk:

This is a formal complaint against the above referenced Respondent for failure to comply with the disclosure requirements of Gov. Code section 87100 et seq., particularly:

- (1) Gov. Code 87202 – Failure to file complete and accurate FPPC Form 700 for an assuming office statement and the calendar years 2011, 2012 and 2013;
- (2) Gov. Code 87207 – Failure to disclose sources of income on FPPC Form 700;
- (3) Gov. Code 87209 – Failure to disclose business positions and third-party relationships relevant to allegation (4) below on the Respondent's FPPC Form 700 annual statements for 2011, 2012 and 2013.
- (4) Gov. Code 87100 – Making or participating in making governmental decisions in which entities in which the Respondent was an officer or director had a financial interest.

The complaint alleges that Ms. Guzman-Aceves knew or should have known of these filing requirements, willfully failed to make the required disclosures.

Moreover, the Governor's Office, which is responsible to assure that appointive officials of that office have timely filed such reports failed in its responsibility to submit to the FPPC Ms. Guzman-Aceves and other appointees' FPPC Form 700 filings in its possession and, through its inaction, caused the FPPC to respond inaccurately on November 13, 2013 to a valid Public Records Act (PRA) request, thereby causing the FPPC to mislead and deprive the requestor access to information in its possession for nearly five months and, only upon the filing by the undersigned of a second Public Records Act request directly with the Governor's Office on April 4, 2014, did the Governor's office comply with the PRA request on April 7, 2014 and provide to the undersigned copies of the requested records held in its possession but denied to the FPPC.

The complaint notes but does not allege that the independent expenditure political committee that reimbursed the unreported campaign expenses to Ms. Guzman-Aceves

coordinated with and exchanged funds and payments for campaign strategies with the candidate and the controlled committee of that candidate for public office.

The complaint further alleges that Ms. Guzman-Aceves exercised control personally or through other individuals over the activities of multiple undisclosed entities in direct conflict with her responsibilities and official duties as an appointed state official, and those entities acted as agents of or contractors to political committees for political campaign activities related to the 2010 and 2012 elections that remain undisclosed to the FPPC.

INTRODUCTION

Martha Guzman-Aceves AKA Martha Guzman AKA Martha G Aceves was appointed on June 20, 2011 as Special Advisor to the Governor by California Governor Edmund G. Brown Jr. to serve as Deputy Legislative Secretary and held that appointment simultaneously as she executed Tax Year (TY) 2011 (IRS Form 990-EZ dated February 29, 2012) and TY 2012 (IRS Form 990 dated November 22, 2013) for Communities for a New California Education Fund in her name, personal residential address and title as CEO during time periods spanning dates included in her period of appointment. The appointment was for a salaried CA position, ("Assistant to the Governor" (2011, 2012) and "Senior Assistant To The Governor" (2013), with annual pay of \$111,000 (2013), \$108,0000 (2012) and \$47,700 (2011, a partial year).

In November, a Public Records Act (PRA) request was filed with the FPPC to obtain copies of the FPPC Form 700s of two Governor-appointed state employees, Ms. Martha Guzman-Aceves and Ms. Alegria de la Cruz.¹

On November 13, 2013, Ms. Theresa Poon of the CA Fair Political Practices Commission stated in electronic communication in response to the PRA request that the FPPC had no FPPC Form 700 disclosures for Ms. Guzman-Aceves or Ms. de la Cruz on file for the period of their appointment. The FPPC maintains copies of all Statements of Economic Interests of officers and designated employees of state level agencies, including the Governor's Office.

On April 4, 2014, I filed a Public Records Act request with the Governor's office to provide me with copies of "All FPPC Form 700 Statements of Financial Interest" of Ms. Guzman-Aceves' Form 700 Reports along with the director and other appointed members of the Governor's legislative staff for the period 2011-2013. Daniel J. Powell, Deputy Legal Affairs

¹ The FPPC Form 700 statements of Alegria de la Cruz were not included in the undersigned's PRA request and they remain missing to the present date. This Complaint does not include allegations about Ms. de la Cruz.

Secretary in the Office of the Governor provided me 72 pages of responsive documents in electronic form on April 7, 2014.

Ms. Guzman-Aceves' FPPC Form 700 Reports that were provided to me are attached as Exhibit A. I carefully reviewed these reports and compared them with publicly available information in the public domain, including tax information returns and FPPC filings of organizations with which Ms. Guzman-Aceves was affiliated or those with which here affiliated organizations conducted business.

Ms. Guzman-Aceves was required to file a complete and accurate assuming office FPPC Form 700 Statement of Economic Interests as a designated employee of the Governor's Office on or before July 30, 2011 (30 days following her appointment), pursuant to Gov. Code section 87202.

Ms. Guzman-Aceves was required to file complete and accurate annual FPPC Form 700 Statements of Economic Interest for the calendar year 2011, 2012, and 2013 on or before April 1 of the year following the end of each of those calendar years, pursuant to Gov. Code section 87202.

SPECIFIC ALLEGATIONS

1. Allegations Concerning Gov. Code 87207 – Failure to disclose sources of income on FPPC Form 700 and Gov. Code 87209 – Failure to disclose business positions and third-party relationships on the Respondent's FPPC Form 700 annual statements for 2011, 2012 and 2013.

Ms. Guzman-Aceves disclosed her relationship as a partner in Cultivo Consulting in her FPPC Form 700 Assuming Office Statement but failed to disclose her chief executive officer position and founder's role at two other organizations.

Neither Ms. Guzman-Aceves' position as an officer of Cultivo Consulting, a lobbying firm, nor the other positions were ever disclosed in her subsequent FPPC Form 700 Annual Statements.

Ms. Guzman-Aceves also failed to disclose her relationship with or position of authority over another third-party entity and receipt of a monetary payment from that entity, an FPPC- and FEC-registered General Purpose Independent Expenditure political committee.

Ms. Guzman-Aceves is listed in various public filings from 2009 to the present as CEO and Founder, Communities for a New California Education Fund; Founder Communities for a New California Inc.; Co-Founder and Partner, Cultivo Consulting, and a payee of partisan

political independent expenditures of Communities for a New California – Fresno Committee, to wit:

1. Martha Guzman-Aceves signed TY 2011 and TY 2012 IRS Form 990 tax documents of Communities for a New California Education Fund corporation as the entity's CEO and is designated as the person for service of process for that corporation in corporate registration filings made with the California Secretary of State.
2. Ms. Guzman-Aceves provided her biography to Latino Journal and/or Café de California prior to January 15, 2013, the date on which the organizations sponsored the "Latino Leaders Reception," an event honoring Ms. Guzman-Aceves with a "Spirit of Latina Award." In the published biography, Ms. Guzman-Aceves described herself as "co-founder of Communities for a New California, a 501c4."

Communities for a New California Education Fund is an active California corporation, formed February 28, 2011, Registration No. C3362507, organized and operated as a non-profit charitable educational corporation for specific exempt purposes permissible under Internal Revenue Code (IRS) § 501(c)(3) with a ruling date of January 2012, EIN 45-1636468 according to the California Secretary of State and tax returns of the entity. Its business office is located at 1108 Hawk Ave., Sacramento CA 94833, an address listed by Ms. Guzman-Aceves on her voter registration form as her primary residence. The same tax return listed the phone number of the entity as 916-524-2241, a Cingular cellular telephone billed to Martha Aceves. On its California Secretary of State corporate filing dated February 28, 2011, it stated its agent for service of process was Kevin Hall; a subsequent filing on March 14, 2014 updated its agent for service of process to Martha Guzman Aceves. On its TY 2011 IRS Form 990-EZ, it stated that the organization's books were in care of Pablo Rodriguez, 3638 H St., Apt. 14, Sacramento CA 95816. On its TY 2012 IRS Form 990, it stated that the organization's records and books were in care of Pablo Rodriguez, 2 Mark River Ct., Sacramento CA 95831, and named its officers as Martha Guzman Aceves, CEO; Charles S. Eaton, CFO; Phoebe Seaton, Secretary; Jennifer Hernandez, Director (Ms. Guzman-Aceves' business partner in Cultivo Consulting, described herein); and Alegria de la Cruz, Director (a state employee appointed by Governor Brown on December 9, 2011 as Supervising Staff Counsel at the California Labor Relations Board; prior to her appointment, Ms. de la Cruz was Legal Director of Center on Race Poverty and the Environment, described herein).

Communities for a New California AKA CNC is an active California corporation, formed March 12, 2010, Registration No. C3285327, organized and operated as a non-profit social welfare corporation for specific exempt purposes permissible under IRS Code § 501(c)(4) with a ruling date of January 2013, EIN 27-2348747 according to the California Secretary of State and tax returns of the entity. On its California Secretary of State corporate filing dated March 10, 2014, it stated its agent for service of process was Richard R. Rios, 555 Capitol Mall, Ste. 1425, Sacramento CA 95814, an address co-located with the law offices of Olson Hagel & Fishburn

LLP, of which Mr. Rios' is a partner. On its TY 2012 IRS Form 990, it listed its address as 5429 Madison Ave., Sacramento CA 95841, an address co-located with the business address of River City Business Services, Proprietor Rita Copleand, and named its officers as Charlie Stephens Eaton, Director; Sarah Sharpe, Director; Laurel Firestone, Director; Analisa Vargas, Director; Pablo Rodriguez, Executive Director; Jennifer Hernandez, President (Ms. Guzman-Aceves' business partner in Cultivo Consulting, described herein); Eric Reyes, Secretary; and Cesar Lara, Treasurer.

Communities for a New California – Fresno Committee AKA Communities for a New California – Fresno-Tulare Committee is an active general purpose statewide independent expenditure committee, FPPC No. 1331609, formed September 8, 2010. Its Treasurer is Rita Copeland and its President is Daniela Simunovic (an employee of Communities for a New California Education Fund and Communities for a New California) according to FPPC Form 410 filed by the committee. It operates from offices in Fresno, California 93728 (originally located on September 8, 2010 at 1801 Broadway, Ste. 127, Fresno CA 93721, then as of September 23, 2010, relocated to 1518 N. Arthur Ave, Fresno, California 93728) and has its business office located at 5429 Madison Ave., Sacramento, California 95841, an address co-located with the business address of River City Business Services, Proprietor Rita Copleand. The committee is also registered with the Federal Election Commission as a federal independent expenditure committee, FEC ID No. C90014259.

Ms. Guzman is prominently featured in photographs displayed on Communities for a New California's website and Facebook pages, including a photograph of her discussing a election precinct map of Fresno CA with volunteers and/or staff of Communities for a New California.

Ms. Guzman-Aceves and Jennifer Alvarez Hernandez are partner/owners of Cultivo Consulting according to FPPC Form 700 Assuming Office Statement disclosure filings for the period 6/20/11-12/31/13 submitted by Martha Aceves.

She omitted from her later FPPC Form 700 filings mentions of her continuing role and activities with Cultivo Consulting. Cultivo Consulting is a privately held partnership established in 2008 and operated by Martha Guzman-Aceves and Jennifer Alvarez Hernandez, partners. Its office addresses in Sacramento and Los Angeles, California are unlisted. The office telephone number of Cultivo Consulting's Sacramento office, 916-524-2241, is registered to a Cingular cellular telephone billed to Martha Aceves and is the same telephone number listed on IRS tax filings as the primary telephone number of Communities for a New California Education Fund.

In addition to the instances cited above, numerous press releases, media stories, and other public documents describe Ms. Guzman-Aceves as "founder" of Communities for a New California Education Fund and Communities for a New California Inc.

Martha Guzman-Aceves was prominently displayed on Cultivo Consulting's website's "Leadership Profiles" page as partner of Cultivo Consulting until at least April 28, 2012, as documented by a cached copy of said page that was archived on that date by ZoomInfo.com. At an unknown subsequent date, reference to Ms. Guzman-Aceves was removed from the subject page.

Ms. Guzman-Aceves failed to report on her FPPC Form 700 disclosure filings for 2012 a payment she received from Communities for a New California – Fresno Committee [FPPC No. 1331609], to wit:

- (a) According to CA FPPC Form 460 for said committee for the period October 21, 2012 to December 31, 2012, filed January 31, 2013, Schedule F, said committee paid Ms. Guzman-Aceves \$437.90 for previously incurred (accrued expense reimbursement) on October 21, 2012 for "Independent Expenditure Supporting/Opposing Others: Supplies, Water and Snacks," expense accrued prior to her appointment by Governor Brown.
- (b) Accessed on the California Secretary of State campaign finance database, CA FPPC Form 460 (amendment 0-Original Filing) of Communities for a New California – Fresno Committee for the period January 1, 2011 to June 30, 2011 filed August 1, 2011, Schedule F (Accrued Expenses) states an Outstanding Balance at the beginning of this period owed to Martha Guzman Aceves of \$437.90 with Code or Description of Payment, "IND (Independent expenditure supporting/opposing others), Supplies, Water and Snacks," and an outstanding balance at the close of this period of \$437.90. The database fails to reference any filings of the committee made prior to January 1, 2011, though some prior to 2011 are archived on the Fresno County Registrar of Voters website.

Center on Race, Poverty and the Environment, throughout the period of Ms. Guzman-Aceves' appointment and state employment acted as fiscal sponsor for Communities for a New California Education Fund and received significant sums of money and devolved same to Communities for a New California Education Fund, an entity under Ms. Guzman-Aceves discretionary control, and which she failed to report on her FPPC Form 700 filings. Center on Race, Poverty and the Environment has received grants on behalf of Communities for a New California Education Fund totaling at least \$542,385 between 2011 and the present, either directly or through its fiscal sponsor from The California Endowment and the Women's Foundation of California; Communities for a New California Education Fund also received a grant of \$25,000 on 12/6/13 from Tides Foundation [Grant No. TFR13-02593], to wit:

- (a) The website FoundationCenter.com on 9/5/13 stated: The California Endowment [501(c)(3), EIN 95-4523232, CACorp C1930013, Active] made a grant to Center on Race, Poverty and the Environment as fiscal sponsor for Communities for a New California Education Fund of \$167,888 in TY 2012 for the period 1/1/12-12/31/13 for

“Project Support to implement a leadership development program in order to build the capacity of residents to engage in advocacy efforts that will improve community health in the Fresno Building Healthy Communities Area.” This grant description was subsequently altered by The Endowment to eliminate reference to Communities for a New California Education Fund (3/19/14).

- (b) The California Endowment made a second grant to Center on Race, Poverty and the Environment as fiscal sponsor for Communities for a New California Education Fund of \$159,497 in TY 2013 for the period 11/15/12-11/14/14 for “Project Support to increase resident engagement, leadership and advocacy in public decision-making processes to support healthy youth development and improve community safety in Southwest Merced/East Merced County [CA].”
- (c) The California Endowment made a third grant to Center on Race, Poverty and the Environment as fiscal sponsor for Communities for a New California Education Fund of \$128,000 on 10/12/13 for “Building Resident Power for Improved Health Outcomes: To provide general operating support to an organization that strengthens the capacity of residents to advocate for healthier communities in Fresno.”
- (d) The Endowment made a fourth grant to Center on Race, Poverty and the Environment as fiscal sponsor for Communities for a New California Education Fund of \$151,681 on 12/19/13 for Community Organizing and Advocacy for Health: To increase resident engagement, leadership and advocacy in public decision-making processes to support healthy youth development and improve community safety in Southwest Merced/East Merced County.
- (e) TY 2011 990-PF for The California Endowment, Schedule I states payment of a grant of \$175,000 to Center on Race, Poverty and the Environment for "Building Healthy Communities - South Kern and East Coachella Valley: to provide technical assistance to local advocates participating in the South Kern, Fresno, and East Coachella Valley Building Healthy Communities sites working to advance health equity policies and systems change focused on environmental justice issues."
- (f) TY 2012 IRS Form 990 for Center on Race, Poverty and the Environment, Schedule I, Part II states that it paid a cash grant in the amount of \$329,147 to Communities for a New California Education Fund for unstated purposes.
- (g) TY 2012 IRS Form 990 for Center on Race, Poverty and the Environment, Part III states program service accomplishment expenditures of \$1,429,024 with \$0 grants and \$0 revenue; Part VIII line 1e states the entity received \$313,206 revenue from government grants; Schedule C, Part II-B, question 1g states "YES" for influencing legislation including influencing public opinion on a legislative matter or referendum through the

use of direct contact with legislators, their staffs, government officials, or a legislative body, but states no expenditure amount.

- (h) TY 2011 IRS Form 990 for Center on Race, Poverty and the Environment, Part III states program service accomplishment expenditures of \$1,084,812 with \$0 grants and \$0 revenue; Part VIII line 1e states the entity received \$50,000 revenue from government grants; Schedule C, Part II-B, question 1g states "YES" for influencing legislation including influencing public opinion on a legislative matter or referendum through the use of direct contact with legislators, their staffs, government officials, or a legislative body but states no expenditure amount.

Throughout the period of Ms. Guzman-Aceves' appointment and state employment Communities for a New California Education Fund, an entity under Ms. Guzman-Aceves discretionary control, also received material amounts of money directly from other sources which she failed to report on her FPPC Form 700 filings, to wit:

- (a) TY 2011 IRS Form 990-PF for Women's Foundation of California [501(c)(3), EIN 94-2752421], Schedule I states that the entity paid a grant of \$40,000 to Communities for a New California Education Fund [EIN 05-0557231] for Inland Valley Civic Engagement Capacity Building Project.
- (b) The grants database of The California Endowment state that the entity paid grants in 2013 of \$1,000 to Communities for A New California Education Fund for "Immigrant Day 2013: For sponsorship of community resident participation in an annual educational visit to inform and educate decision makers on the remaining uninsured as it relates to the implementation of the Affordable Care Act in California," and \$10,000 for "Improving Student Social-Emotional Health Through Restorative Justice Practices: To provide technical assistance to youth-serving organizations to develop an organizing effort that will create healthier school environments through improvements in school discipline and truancy policies in Fresno."
- (c) Tides Foundation [501(c)(3), EIN 51-0198509, California Corporation No. C0770856] paid a grant of \$25,000 in 2013 to Communities for A New California Education Fund for "General Support."
- (d) TY 2012 IRS Form 990 for Western Conservation Foundation [501(c)(3), EIN 33-1107506, a Colorado corporation], Schedule I states that the entity paid a grant of \$15,200 to Communities for A New California Education Fund for "Public Lands Education."

Throughout the period of Ms. Guzman-Aceves' appointment and state employment Communities for a New California, an entity under Ms. Guzman-Aceves's business partner's

discretionary control and for which Ms. Guzman reasonably held capacity for influence, also received material amounts of money directly from other sources which she failed to report on her FPPC Form 700 filings, to wit:

- (a) TY 2012 IRS Form 990 for Alliance of Local Leaders for Education, a previous name of California Calls Action Fund [501(c)(4), EIN 74-3064220, a suspended California Corporation No. C244789, formed September 13, 2002 (CA Franchise Tax Board suspended, February 1, 2008; revived September 8, 2011, name changed November 21, 2011, CA Secretary of State suspended, March 11, 2014), Schedule I states it paid a grant of \$116,084 to Communities for a New California [EIN 27-2348747] for "Field Work."
 - (b) TY 2012 IRS Form 990 for Communities for a New California Inc., Part IX, line 24a states "Civic Engagement Projects" with expense of \$128,414. Schedule O, line 4a includes description of several Program Service Accomplishments, titled "Pesticide Action Network sub-contract," "Community Education Television PSAs," "California Calls Action Fund", "Non-Partisan Get Out The Vote Events," and "Fresno County Non-Partisan Voter Registration Project" but fails to allocate expenses to each program as required for 501(c)(4)-exempt organizations in Part II, line 4 instructions, to wit: "Section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.").
 - (c) TY 2011 IRS Form 990 for Center on Race, Poverty and the Environment, Schedule I, Part II states that it paid a cash grant in the amount of \$20,000 to Pesticide Action Network [EIN 94-2949686] for unstated purpose.
 - (d) TY2012 IRS Form 990 for Pesticide Action Network North America [501(c)(3), EIN 94-2949686], Part III, line 4b states (in part): "...CPR [Californians for Pesticide Reform, a PANNA-led coalition and internal project or program] is managing a project in Kern and Fresno counties to overcome barriers to reporting pesticide incidents and other pollution by allowing affected community members to report issues easily, 24 hours a day, in English and Spanish, using simple web tools" but failed to allocate expenses to each program as required for 501(c)(4)-exempt organizations in Part II, line 4 instructions, stating total coalition expenses of \$516,175 and revenue of \$885,439.
2. **Allegations Concerning Violations of Gov. Code 87100 – Making or participating in making governmental decisions in which entities in which the Respondent was an officer or director had a financial interest.**

Throughout the period during which Ms. Guzman-Aceves was appointed to office and employed by the State, the undisclosed entities in which Ms. Guzman-Aceves' held positions of authority or exerted influence undertook activities that included lobbying California legislators and the U.S. Congress and taking affirmative or opposition positions on specific legislation, ballot-measure issues, and candidates, conflicting activities directly related to her work as Governor Brown's Deputy Legislative Secretary. Ms. Guzman-Aceves' involvement includes instructing and directing staff, contractors or volunteers of the undisclosed entities. On information and belief, Ms. Guzman-Aceves made or participated in making decisions as a government official in which the below-named entities of which she was an officer or director had a financial interest under Government Code section 87100.

Throughout the period of Ms. Guzman-Aceves' appointment and state employment, entities under Ms. Guzman-Aceves personal control or the control of her business partner, Ms. Jennifer Hernandez, lobbied and advocated for specific legislation and regulatory matters directly related to Ms. Guzman-Aceves's duties for the Governor and state, to wit:

- (a) On August 28, 2013, Pablo Rodriguez, Executive Director of Communities for a New California Education Fund signed on behalf of his organization his endorsement of a public comment letter from Pesticide Action Network North America's Californians for Pesticide Reform urging California Department of Pesticide Regulation to not register a soil fumigant pesticide, a regulatory matter directly involving Ms. Guzman-Aceves in her official capacity.
- (b) Communities for a New California Education Fund is listed by Pesticide Action Network North America as a member of the Californians for Pesticide Reform Steering Committee on its Policy Roadmap position statement, "Investing in Innovation."
- (c) Communities for a New California Education Fund had in 2012 or has presently in place a contractual agreement with Pesticide Action Network North America to conduct specific work for Pesticide Action Network North American on its behalf.
- (d) On Saturday, August 24, Communities for a New California was a named sponsor of a PICO California Pilgrimage for a Pathway to Citizenship with activities that included invitations to U.S. Congressman Devin Nunes and letter-writing and phone outreach to Mr. Nunes' office.
- (e) Communities for a New California was named as a sponsor of a grassroots campaign flyer of California Immigrant Policy Center ("CIPC") urging specific votes on seven ballot measures in the November 6, 2012 election. Communities for a New California is a member of CIPC's steering committee.

- (f) Communities for a New California advertised publically for open positions of Canvassers and Phone Banker jobs in Fresno from September 29 to November 6, 2012.
- (g) Communities for a New California was listed as a supporter of the AB 4 (Ammiano), “Federal immigration policy enforcement,” the TRUST Act.
- (h) Ms. Guzman-Aceves posted on Facebook on October 24, 2012 her picture with CNC Fresno Team Leader Venise Currey, captioned “CNC co-founder Martha Guzman and CNC Fresno Team Leader Venise Currey encourage you to vote Yes on 30!”
- (i) Communities for a New California Education Fund was listed as a supporter of AB 1081 (Ammiano) “Immigration Detainer Requests” during the 2012 legislative session.
- (j) Communities for a New California Education Fund was listed as a supporter of AB 2384 (Bradford) “Schoolsite councils” during the 2012 legislative session.
- (k) Communities for a New California Education Fund was listed as a supporter of AB 2334 (Fong) “California Water Plan: Affordable drinking water analysis” during the 2012 legislative session.
- (l) Communities for a New California is listed as a supporter of SB 1381 (Evans) “Food labeling: genetically engineered food” during the 2014 legislative session.
- (m) Communities for a New California is listed as a supporter of SB 1411 (Jackson) “Pesticides: application safety” during the 2014 legislative session.

Sincerely,

Brian Hews

Brian Hews

Publisher/Editor, Hews Media Group-Community News

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