

# Deputy Legal Affairs Secretary Daniel Powell's letter obtained via a public records request



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## OFFICE OF THE GOVERNOR

August 21, 2014

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

RE: Complaint Against Martha Guzman-Aceves and the Office of the Governor

Dear Mr. Winuk:

Thank you for the opportunity to provide a preliminary response to the allegations contained in the letter to the Commission dated August 5, 2014. The allegations are completely without merit and do not warrant the opening of a formal investigation in this matter.

The allegation that the Governor's Office failed to submit Ms. Guzman-Aceves' Statement of Economic Interests (Form 700) to the Commission reflects a misunderstanding of what is required under the Political Reform Act. Pursuant to Government Code section 87300, the Governor's Office has adopted a Conflict of Interest Code, which requires that certain designated employees (including Ms. Guzman-Aceves) file a Form 700. As specified in the Conflict of Interest Code for the Governor's Office, aside from the Executive Secretary's Form 700, the Form 700s for all other designated employees are retained by the Governor's Office and made available for public inspection and reproduction upon request. The Governor's Office is not required to file those Form 700s with the Commission. And as the letter itself states, the Governor's Office provided Ms. Guzman-Aceves' Form 700s when they were requested from this Office. The Governor's Office has fully complied with its obligations under the Political Reform Act.

Additionally, the allegations against Ms. Guzman-Aceves are based on a factual error: Ms. Guzman-Aceves did not receive any compensation from any of the organizations identified in the August 5 letter while she was an employee of this Office, and she had no duty to report those entities on her Form 700. While it is true that Ms. Guzman-Aceves was a founder and partner at Cultivo Consulting, she resigned her position as partner when she began work at the Governor's Office. Moreover, Ms. Guzman-Aceves properly reported on her assuming office statement the income from Cultivo Consulting that she received prior to her appointment. Although Cultivo Consulting failed to change the contact number on their website after she left,

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Ms. Guzman-Aceves has received no income and has occupied no business position with Cultivo Consulting since her appointment.

Ms. Guzman-Aceves also acted properly in not reporting any financial interest in Communities for a New California, Inc. (CNC, Inc.) and Communities for a New California Education Fund (Education Fund). Ms. Guzman-Aceves has not received income from either organization while working for the Governor's Office, and was not required to report either entity under Government Code section 87207. The only suggestion to the contrary is the fact that CNC, Inc. reimbursed Ms. Guzman-Aceves \$437.90 for water and snacks she purchased for an event sponsored by CNC, Inc. As she received no personal benefit from this reimbursement, she was not required to report this amount on her Form 700.

Although Ms. Guzman-Aceves is a member of the board of directors for CNC, Inc. and the Education Fund, she was under no obligation to report these positions. Government Code section 87209 requires that designated employees report *business* positions they hold, but that provision does not apply here. Section 87209 defines business position as "any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management" if the business does business within the state. Section 82005, however, defines business to mean "any organization or enterprise *operated for profit*. . . ." (Emphasis added.) Communities for a New California, Inc. is nonprofit organized under section 501(c)(4) of the Internal Revenue Code, while Communities for a New California Education Fund is a nonprofit organized under section 501(c)(3) of the Internal Revenue Code. Neither is operated for profit, and Ms. Guzman-Aceves was not required to report her volunteer work for these organizations.

Finally, any argument that Ms. Guzman-Aceves violated the conflict of interest provisions in section 87100 is similarly without merit. Section 87100 provides that "no public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest." Here, Ms. Guzman-Aceves has no financial interest in these entities. For the same reasons Ms. Guzman-Aceves was not required to report her interest in CNC, Inc. or the Education Fund on her Form 700, section 87100 does not apply.

Because Ms. Guzman-Aceves did not receive compensation from any of the entities listed in the August 5 letter while she was employed by the Governor's Office, Ms. Guzman-Aceves has properly complied with the Political Reform Act, and no further investigation into the matter is warranted. If you have any other questions or require any additional information, please do not hesitate to let me know.

Sincerely,

  
DANIEL J. POWELL  
Deputy Legal Affairs Secretary



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

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August 27, 2014

Brian Hews  
Publisher/Editor  
Hews Media Group-Community News  
PO Box 788  
Artesia, CA 90702

Re: Complaint against Martha Guzman-Aceves

Dear Mr. Hews:

This letter is in response to the complaint you submitted regarding the above-referenced person. The Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act ("Act") found in Government Code Section 81000, and following. After review of your complaint, the information you provided is insufficient to establish a violation of the Act.

You allege Ms. Guzman-Aceves failed to submit her statement of economic interests ("SEI") to the FPPC. The Conflict of Interest Code for the Governor's Office does not require all designated employees' statements be forwarded to the FPPC. Only the statement for the position of Executive Secretary is to be forwarded.

You also allege Ms. Guzman-Aceves of failing to properly report investments and income on her SEI. Under the Act, income of \$500 or more is required to be disclosed. (Section 87207.) Therefore, the income received from Communities for a New California-Fresno-Tulare Committee was not required to be disclosed.

As for not reporting income from and her position as a board member of two non-profit organizations, there was insufficient evidence to establish a violation in this matter. Under Section 87209, Ms. Guzman-Aceves is not required to list her position with the non-profit organizations. There is insufficient evidence that Ms. Guzman-Aceves received income of \$500 or more from the non-profits that would trigger the conflict prohibitions and the disclosure provisions.

As to her failure for not disclosing her investment in and income from Cultivo Consulting, Ms. Guzman-Aceves resigned her position as partner when she began work at the Governor's Office.

Thank you for taking the time to bring this matter to our attention. If you have any questions regarding this decision, please contact Teri Rindahl at (916) 327-2018.

Sincerely,

Gary S. Winuk, Chief  
Enforcement Division

GSW/tr

Cc: Ms. Guzman-Aceves c/o Daniel Powell, Deputy Legal Affairs Secretary