

FEDERAL ELECTION COMMISSION

Washington, DC 20463



November 7, 2022

MEMORANDUM

TO: Lisa J. Stevenson LJS /by RQL
Acting General Counsel

Charles Kitcher CK /by RQL
Associate General Counsel for Enforcement

FROM: Roy Q. Luckett *RQL*
Acting Assistant General Counsel

SUBJECT: Status of Enforcement – Fiscal Year 2022, Fourth Quarter (07/01/22-09/31/22)

To assist the Commission and the Office of General Counsel in assessing the current productivity of the Commission’s enforcement program, we submit the Status of Enforcement for the Fourth Quarter of Fiscal Year 2022 (07/01/22-09/30/22). The tables that follow provide information to assist agency management in its review of the enforcement program.

The information included reflects a sustained high level of Enforcement activity in FY 2022. In summary, at the close of the quarter, the total caseload was 205 matters — 114 active and 91 inactive. During the fiscal year, the Enforcement Division’s Office of Complaints Examination & Legal Administration (“CELA”) circulated 27 EPS reports in an average of 118 days. The Enforcement Division also circulated First General Counsel’s Reports (“FGCRs”) in 88 matters in an average of 231 days, meeting the internal circulation goal 68% of the time. There were 13 matters pending in the investigation stage at the close of the quarter. There were also 245 case closings and the Commission assessed \$2,062,128 in civil penalties for all matters that closed during the fiscal year.

Table 1. Caseload

<u>CASELOAD</u>	Inactive	Active	Total
Number of Cases	91	114	205
Number of Reports Pending w/Commission*	3	17	20
FGCR	N/A	67	67
Investigation	N/A	15	15
Pre-Probable Cause Conciliation	N/A	32	32
Probable Cause / PC Brief	N/A	N/A	N/A

*As of November 7, 2022

Table 2. CELA Statistics

<u>CELA INITIAL CASE PROCESSING</u>	Current Quarter	FY 2022	2021	2020	2019	2018	2017	2016
Number of Cases Received	43	154	128	176	149	258	148	181
Number of Cases Rated	25	83	152	135	144	172	115	111
Average Days from Last Response to Rating (Goal: 30 days)	9	14	15	11	11	10	30	11
Ratings Meeting Goal	84% [21/25]	79% [85/108]	77% [117/152]	84% [114/135]	75% [108/144]	87% [149/172]	75% [86/115]	86% [95/111]
Number of Cases Activated	21	74	101	109	112	128	131	106
Average Days from Last Response to Activation (Goal: 90 Days)	120	99	77	39	47	44	65	26
Activations Meeting Goal	67% [14/21]	70% [52/74]	65% [66/101]	92% [100/109]	72% [81/112]	90% [115/128]	84% [110/131]	96% [102/106]
Number of Cases Dismissed Via EPS	5	20	42	18	44	76	64	45
Number of Cases Circulated Via EPS	6	27	34	24	49	50	58	47
Average Days from Assignment to Circulation of EPS Report	87	118	116	58	50	36	45	99
Number of Cases Transferred to ADRO	0	0	6	11	7	9	9	6
Average Days from Rating to Transfer to ADRO (Goal: 60 Days)	0	0	60	32	36	26	42	40
ADRO Transfers Meeting Goal	N/A [0/0]	N/A [0/0]	67% [4/6]	82% [9/11]	71% [5/7]	89% [8/9]	75% [6/8]	60% [3/5]

Table 3. Enforcement Statistics

<u>ENFORCEMENT PROCESS</u>	Current Quarter	FY 2022	2021	2020	2019	2018	2017	2016
First General Counsel’s Reports (“FGCRs”)								
Cases with FGCRs Circulated	21	88	128	103	143	95	140	61
Average Days from Activation to Circulation	247	231	165	153	177	142	103	94
FGCRs Meeting Established Time Goal	62% [13/21]	68% [60/88]	73% [93/128]	68% [70/103]	68% [97/143]	76% [72/95]	86% [120/140]	90% [55/61]
Pre-Probable Cause Conciliation (“PPCC”)								
Negotiations Commenced	37	114	103	2	79	80	51	59
Negotiations Concluded	23	92	49	12	84	49	53	64
Average Days in PPCC (Goal: 60 Days)	138	119	122	221	127	163	130	111
Number of Negotiations Meeting Goal	17%	22%	65%	0%	30%	31%	34%	41%
Investigations								
Investigations Commenced	2	7	12	1	31	16	14	9
Investigations Closed	0	9	22	8	10	8	7	3
Average Days in Investigation	N/A	862	660	549	634	387	400	272
Active Investigations at Close of Quarter	13							
Probable Cause								
Hearing Requests/Number Granted	0/0	2/2	1/1	0/0	1/1	1/1	0/0	0/0
Cases with Probable Cause Findings	0	2	2	0	0	0	2	2
Negotiated PC Settlements Approved	0	3	1	0	0	0	0	0
Average Days in PC Conciliation	N/A	841	29	N/A	N/A	N/A	40	N/A
Closed Cases								
Matters Closed	73	245	194	37	189	169	151	148
Matters Closed Within 15 Months	25 (34%)	55 (22%)	66 (34%)	23 (62%)	106 (56%)	104 (62%)	100 (66%)	56 (38%)
Average Days from Receipt to Closing	867	811	852	530	630	436	472	666
Civil Penalties	\$379,000	\$2,062,128	\$803,878	\$702,000	\$2,123,436	\$635,200	\$1,384,300	\$595,425

Table 4. Cases Pending Without a Commission Vote for 12 Months

Matter	Case Name	Opened	Days Received to Close of Quarter	Circulation Date	Status Letter Date
1				02/20/20	04/25/22
2					10/19/21
3				(11/21/22)	09/21/22
4				(11/21/22)	09/21/22
5					10/19/21
6					07/18/22
7				(11/08/22)	N/A
8				09/21/22	07/19/22
9				09/21/22	07/19/22
10				(11/08/22)	N/A
11				09/21/22	07/19/22
12				(03/31/23)	02/22/22
13				(11/08/22)	N/A
14				09/29/22	04/26/22
15				(03/01/23)	03/21/22
16				(03/01/23)	03/21/22
17					04/22/22
18				11/17/20	07/15/22
19					07/12/21
20				10/20/22	07/08/22
21					08/18/22
22				01/27/21	10/19/22
23				09/30/22	N/A
24					09/21/21
25				(02/06/23)	02/03/22
26					02/04/22
27					01/31/22
28					01/31/22

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Matter	Case Name	Opened	Days Received to Close of Quarter	Circulation Date	Status Letter Date
29					02/04/22
30				(11/21/22)	05/03/22
31				(02/03/23)	04/22/22
32					04/25/22
33				(12/30/22)	06/17/22
34				(11/08/22)	N/A
35				(11/21/22)	10/25/22
36					N/A
37					N/A
38				(11/14/22)	N/A

A date in parenthesis is the date FGCR is scheduled to circulate

Table 5. Statute of Limitations Sensitive Matters (18 Months)

	Matter	Case Name	Tolling	Opened	Earliest SOL	Latest SOL	Current Stage
1							
2							
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	Matter	Case Name	Tolling	Opened	Earliest SOL	Latest SOL	Current Stage
29							
30							
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Table 6. Matters Beyond the Reason to Believe Stage

Matter	Case Name	Current Stage
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Matter	Case Name	Current Stage
30		
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Table 7. First General Counsel’s Reports Pending with the Commission at the End of the Quarter

Matter	Case Name	Receipt	Assigned	Circ.	# of Days Receipt to Circ.	# of Days Assigned to Circ.	# of Days Assigned to Close of Quarter	# of Days Circ. to Close of Quarter	Held Over
1			08/22/19	10/28/19		67	1135	1068	
2			08/22/19	10/28/19		67	1135	1068	
3			07/01/19	02/20/20		234	1187	953	05/04/21; 05/06/21
4			08/20/20	11/17/20		89	771	682	
5			10/29/20	01/27/21		90	701	611	10/13/21; 10/14/21; 10/26/21; 10/28/21
6			04/14/22	08/22/22		130	169	39	09/28/22; 09/29/22
7			05/15/20	09/21/22		859	868	9	10/18/22; 10/20/22
8			05/15/20	09/21/22		859	868	9	10/18/22; 10/20/22
9			05/15/20	09/21/22		859	868	9	10/18/22; 10/20/22
10			06/28/22	09/26/22		90	94	4	
11			08/10/22	09/29/22		50	51	1	
12			06/29/22	09/29/22		92	93	1	
13			07/20/22	09/30/22		72	72	0	
14			10/12/21	09/30/22		353	353	0	10/18/22; 10/20/22

Table 8. Foreign National Matters

Matter #	Primary Respondent	Complainant	Receipt	Assigned	Last Response	Status	To DOJ	Country	Earliest SOL
1				01/28/19					
2				04/23/19					
3				10/21/22					