

AGENDA DOCUMENT NO. X23-45
AGENDA ITEM
For meeting of November 1, 2023
SUBMITTED LATE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

October 30, 2023

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS*
Acting General Counsel *by wdb*

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Associate General Counsel *by wdb*
for Enforcement

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SUBJECT: Status of Enforcement – Fiscal Year 2023 (10/01/22-09/30/23)

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 2023 (10/01/22-09/30/23). The tables that follow provide information to assist agency management in its review of the enforcement program.

At the close of the quarter, the total enforcement caseload was 204 matters — 102 active and 102 inactive. During fiscal year 2023, the Enforcement Division circulated First General Counsel’s Reports (“FGCRs”) in 69 matters in an average of 169 days, meeting the internal circulation goal 70% of the time. The Enforcement Division’s Office of Complaints Examination & Legal Administration (“CELA”) circulated 15 EPS reports in an average of 27 days. Two new investigations commenced during the fiscal year and nine matters were pending in investigation stages at the close of the year. The Commission closed 116 matters in an average of 632 days, thereby meeting its goal of closing within 15 months in 53% of these matters. Finally, the Commission assessed \$1,482,300 in civil penalties during the fiscal year.

Table 1. Caseload

<u>CASELOAD</u>	Inactive	Active	Total
Number of Cases	102	102	204
Number of Reports Pending w/Commission*	0	10	10
FGCR	N/A	79	79
Investigation	N/A	9	9
Pre-Probable Cause Conciliation	N/A	13	13
Probable Cause / PC Brief	N/A	1	1

*As of October 30, 2023

Table 2. CELA Statistics

<u>CELA INITIAL CASE PROCESSING</u>	Current Quarter	FY 2023 (To Date)	2022	2021	2020	2019	2018	2017
Number of Cases Received	29	122	154	128	176	149	258	148
Number of Cases Rated	20	129	83	152	135	144	172	115
Average Days from Last Response to Rating (Goal: 30 days)	21	16	14	15	11	11	10	30
Ratings Meeting Goal	70% [14/20]	81% [104/129]	79% [85/108]	77% [117/152]	84% [114/135]	75% [108/144]	87% [149/172]	75% [86/115]
Number of Cases Activated	18	75	74	101	109	112	128	131
Average Days from Last Response to Activation (Goal: 90 Days)	94	86	99	77	39	47	44	65
Activations Meeting Goal	44% [8/18]	64% [48/75]	70% [52/74]	65% [66/101]	92% [100/109]	72% [81/112]	90% [115/128]	84% [110/131]
Number of Cases Dismissed Via EPS	2	26	20	42	18	44	76	64
Number of Cases Circulated Via EPS	0	15	27	34	24	49	50	58
Average Days from Assignment to Circulation of EPS Report	N/A	27	118	116	58	50	36	45
Number of Cases Transferred to ADRO	0	0	0	6	11	7	9	9
Average Days from Rating to Transfer to ADRO (Goal: 60 Days)	N/A	N/A	N/A	60	32	36	26	42
ADRO Transfers Meeting Goal	N/A [0/0]	N/A [0/0]	N/A [0/0]	67% [4/6]	82% [9/11]	71% [5/7]	89% [8/9]	75% [6/8]

Table 3. Enforcement Statistics

<u>ENFORCEMENT PROCESS</u>	Current Quarter	FY 2023	2022	2021	2020	2019	2018	2017
First General Counsel’s Reports (“FGCRs”)								
Cases with FGCRs Circulated	14	69	88	128	103	143	95	140
Average Days from Activation to Circulation	110	169	231	165	153	177	142	103
FGCRs Meeting Established Time Goal	79% [11/14]	70% [48/69]	68% [60/88]	73% [93/128]	68% [70/103]	68% [97/143]	76% [72/95]	86% [120/140]
Pre-Probable Cause Conciliation (“PPCC”)								
Negotiations Commenced	6	35	114	103	2	79	80	51
Negotiations Concluded	10	89	92	49	12	84	49	53
Average Days in PPCC (Goal: 60 Days)	355	179	119	122	221	127	163	130
Number of Negotiations Meeting Goal	20%	19%	22%	65%	0%	30%	31%	34%
Investigations								
Investigations Commenced	0	2	7	12	1	31	16	14
Investigations Closed	2	6	9	22	8	10	8	7
Average Days in Investigation	516	437	862	660	549	634	387	400
Active Investigations at Close of Quarter	7							
Probable Cause								
Hearing Requests/Number Granted	0/0	1/1	2/2	1/1	0/0	1/1	1/1	0/0
Cases with Probable Cause Findings	0	1	2	2	0	0	0	2
Negotiated PC Settlements Approved	0	0	3	1	0	0	0	0
Average Days in PC Conciliation	N/A	N/A	841	29	N/A	N/A	N/A	40
Closed Cases								
Matters Closed	17	116	245	194	37	189	169	151
Matters Closed Within 15 Months	9 (53%)	62 (53%)	55 (34%)	66 (34%)	23 (62%)	106 (56%)	104 (62%)	100 (66%)
Average Days from Receipt to Closing	585	632	811	852	530	630	436	472
Civil Penalties	\$436,000	\$1,482,300	\$2,062,128	\$803,878	\$702,000	\$2,123,436	\$635,200	\$1,384,300

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				(12/01/23)	07/26/23
2				(12/26/23)	02/22/22
3				(12/01/23)	10/26/23
4					10/19/23
5					09/21/21
6				(12/01/23)	02/07/23
7					04/19/23
8					04/19/23
9					07/25/23
10				(10/31/23)	07/17/23
11					N/A
12				(11/07/23)	07/27/23
13				(11/01/23)	06/02/23
14				(11/01/23)	07/28/23
15				(12/15/2023)	07/31/23
16				(12/01/23)	08/01/23
17				12/13/22	10/25/23
18				(11/16/23)	07/27/23
19					N/A
20				(12/01/23)	07/27/23
21				(01/19/24)	08/01/23
22				(01/18/24)	08/01/23
23				(12/05/23)	N/A
24				(12/01/23)	10/27/23
25				(11/17/23)	08/01/23
26				(10/31/23)	08/01/23
27				(11/20/23)	07/27/23
28				(11/22/23)	10/27/23
29				06/16/23	10/27/23
30				(11/22/23)	10/27/23

Privileged and Confidential Information Has Been Redacted from this Page

Matter	Case Name	Opened	Days Received to Close of Quarter	Circulation Date	Status Letter Date
31				(12/01/23)	07/27/23
32				06/16/23	10/27/23
33				(11/17/23)	10/25/23
34					N/A
35				(11/15/23)	10/26/23
36				N/A	10/26/23
37				(11/15/23)	10/26/23
38				(01/31/24)	10/25/23
39				(11/20/23)	10/26/23
40				09/07/23	10/25/23
41				(12/29/23)	07/27/23
42				(12/01/23)	10/26/23
43				(11/14/23)	10/25/23
44				N/A	10/26/23
45				N/A	10/26/23
46				(01/16/24)	10/25/23
47				N/A	10/26/23
48				(11/16/23)	10/26/23
49				(11/27/23)	10/30/23
50				(12/01/23)	10/30/23
51					N/A
52				(12/01/23)	10/25/23
53				(12/01/23)	10/26/23
54				(11/06/23)	N/A
55				N/A	10/26/23
56				10/26/23	10/25/23
57				(01/31/24)	10/30/23

A date in parenthesis is the date FGCR is expected 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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30							

Privileged and Confidential Information Has Been Redacted from this Page

	Matter	Case Name	Tolling	Opened	Earliest SOL	Latest SOL	Current Stage
31							
32							
33							
34							
35							

Table 6. Matters Beyond the Reason to Believe Stage

Matters	Case Name	Current Stage
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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 Receipt to Close of Quarter	# of Days Assigned to Close of Quarter	# of Days Circ. to Close of Quarter	Held Over
1		05/06/22	08/16/23	12/13/22		119	512	410	291	01/24/23; 01/26/23; 02/07/23; 02/09/23; 03/28/23; 03/30/23; 03/31/23; 04/18/23; 04/19/23; 05/02/23; 06/21/23; 06/22/23; 07/11/23; 07/13/23
2		06/16/22	05/03/23	06/16/23		44	471	150	106	08/08/23; 08/10/23; 08/29/23; 08/30/23; 10/03/23; 10/05/23; 10/17/23; 10/19/23
3		07/08/22	05/03/23	06/16/23		44	449	150	106	08/08/23; 08/10/23; 08/29/23; 08/30/23; 10/03/23; 10/05/23; 10/17/23; 10/19/23
4		03/09/23	06/01/23	08/17/23		77	205	121	44	09/12/23; 09/14/23; 10/17/23; 10/19/23
5		07/22/22	01/26/23	09/07/23		224	435	247	4	10/03/23; 10/05/23; 10/17/23; 10/19/23
6		10/27/22	04/25/23	09/29/23		157	338	158	1	

Table 8. Foreign National Matters

Matter #	Primary Respondent	Complainant	Receipt	Assigned	Last Response	Status	To DOJ	Country	Earliest SOL
1				01/28/19					
2				N/A					
3				N/A					
4				N/A					