



FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE

AGENDA DOCUMENT NO. X19-19
AGENDA ITEM
For the meeting of May 7, 2019
SUBMITTED LATE

MEMORANDUM

TO: The Commission

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

Charles Kitcher *CK*
Acting Associate General Counsel for Enforcement

SUBJECT: Status of Enforcement – Fiscal Year 2019, Second Quarter (1/1/2019-3/31/19)

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 Second Quarter of Fiscal Year 2019 (1/1/19 – 3/31/2019). The tables that follow provide information to assist agency management in its review of the enforcement program.

In summary, at the close of the quarter the total caseload was 307 — 215 active and 92 inactive. This number of active matters and total caseload remains very high, relative to recent years. For context, in fiscal years 2015-2018, respectively, the active and overall caseload stood at 192/241 (FY '18); 148/275 (FY '17); 119/209 (FY '16); and 115/227 (FY '15). The government shutdown occurred during this period, which impacted case processing.

During the quarter, Complaints Examination & Legal Administration ("CELA") circulated 11 EPS reports in an average of 34 days. The Enforcement Division circulated First General Counsel's Reports in 27 matters in an average of 252 days, meeting the internal circulation goal 44% of the time. The Commission completed pre-probable cause conciliation with 19 respondents in an average of 109 days. There were 20 matters pending in the investigation stage at the close of the quarter. The Commission closed 44 matters in an average of 899 days from the receipt of the complaint or referral, with 21 of those matters (48%) closing within 15 months of receipt. The Commission negotiated a total of \$1,074,000 in civil penalties for all matters that closed during the quarter.

Table 1. Caseload

<u>CASELOAD</u>	Inactive	Active	Total
Number of Cases	92	215	307
Number of Reports Pending with Commission	11	66	77*
FGCR	N/A	178	178
Investigation	N/A	20	20
Pre-Probable Cause Conciliation	N/A	16	16
Probable Cause / PC Brief	N/A	1	1

*As of 4/30/19

Table 2. CELA Statistics

<u>CELA INITIAL CASE PROCESSING</u>	Current Quarter	2019 (To Date)	2018	2017	2016	2015	2014	2013
Number of Cases Received	35	83	258	148	181	121	140	133
Number of Cases Rated	42	72	172	115	111	92	98	145
Average Days from Last Response to Rating (Goal: 30 days)	31	20	10	30	11	9	16	13
Ratings Meeting Goal	55% [23/42]	57% [41/72]	87% [149/172]	75% [86/115]	86% [95/111]	91% [84/92]	95% [93/98]	95% [138/145]
Number of Cases Activated	37	60	128	131	62	84	63	165
Average Days from Last Response to Activation (Goal: 90 Days)	40	55	44	65	26	52	35	50
Activations Meeting Goal	78% [29/37]	82% [49/60]	90% [115/128]	97% [110/131]	96% [102/106]	86% [72/84]	98% [62/63]	87% [143/165]
Number of Cases Dismissed Via EPS	11	24	76	64	45	28	21	15
Number of Cases Circulated Via EPS	6	19	50	58	47	27	29	24
Average Days from Assignment to Circulation of EPS Report	34	40	36	45	99	93	64	41
Number of Cases Transferred to ADRO	4	7	9	9	6	12	18	13
Average Days from Rating to Transfer to ADRO (Goal: 60 Days)	9	36	26	42	40	63	20	66
ADRO Transfers Meeting Goal	100% [4/4]	71% [5/7]	89% [8/9]	75% [6/8]	60% [3/5]	67% [8/12]	100% [18/18]	54% [7/13]

Table 3. Enforcement Statistics

<u>ENFORCEMENT PROCESS</u>	Current Quarter	2019 (To Date)	2018	2017	2016	2015	2014	2013
First General Counsel's Reports ("FGCR")								
Cases with FGCRs Circulated	27	63	95	140	64	85	74	158
Average Days from Activation to Circulation	252	169	142	103	94	87	236	116
FGCRs Meeting Established Time Goal	44% [12/27]	62% [39/63]	76% [72/95]	86% [120/140]	90% [55/61]	96% [82/85]	46% [34/74]	93% [147/158]
Pre-Probable Cause Conciliation ("PPCC")								
Negotiations Commenced	17	29	80	51	59	20	25	31
Negotiations Concluded	19	44	49	53	64	33	34	74
Average Days in PPCC (Goal: 60 Days)	109	125	163	130	111	136	197	126
Number of Negotiations Meeting Goal	0%	4%	31%	34%	41%	30%	32%	26%
Investigations								
Investigations Commenced	2	3	16	14	9	8	5	4
Investigations Closed	5	6	8	7	3	5	1	12
Average Days in Investigation	685	589	387	400	272	445	743	486
Active Investigations at Close of Quarter	20							
Probable Cause								
Hearing Requests/Number Granted	0/0	0/0	1/1	0/0	0/0	2/2	0/0	0/0
Cases with Probable Cause Findings	0	0	0	2	2	3	0	0
Negotiated PC Settlements Approved	0	0	0	0	0	2	0	0
Average Days in PC Conciliation	N/A	N/A	N/A	40	N/A	59	NA	N/A
Closed Cases								
Matters Closed	44	81	169	151	148	88	134	134
Matters Closed Within 15 Months	21 (48%)	46 (57%)	104 (62%)	100 (66%)	56 (38%)	43 (49%)	37 (28%)	96 (72%)
Average Days from Receipt to Closing	899	705	436	472	666	625	521	486
Civil Penalties	\$1,074,000	\$1,493,400	\$635,200	\$1,384,300	\$595,425	\$346,569	\$206,235	\$730,390

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
				10/17/18	07/30/18
				10/23/17	02/26/19
				02/21/19	04/02/19
				N/A	04/29/19
				10/17/18	09/28/18
				08/23/18	06/21/18
				N/A	10/19/18
				N/A	02/28/19
				10/17/18	10/04/18
				N/A	02/08/19
				N/A	02/08/19
				N/A	02/28/19
				N/A	02/01/19
				10/17/18	02/07/19
				05/24/18	03/12/10
				05/15/17	11/29/18
				N/A	10/18/18
				02/19/19	05/02/19
				10/17/18	02/07/19
				05/24/18	03/12/19
				N/A	N/A
				02/19/19	05/02/19
				N/A	05/02/19
				04/03/19	06/13/18
				N/A	08/06/18
				N/A	N/A
				06/25/18	08/02/18
				06/22/18	07/31/18
				N/A	N/A

Matter	Case Name	Opened	Days Received to Close of Quarter	Circulation Date	Status Letter Date
				04/04/18	10/19/18
				N/A	N/A
				04/11/19	N/A
				03/18/19	N/A
				N/A	N/A
				03/30/18	10/04/18
				04/02/18	N/A
				05/03/18	02/26/19
				04/10/19	10/18/18
				03/23/18	02/08/19
				N/A	02/28/19
				10/31/18	02/28/19
				11/08/18	02/01/19
				10/15/18	02/26/19
				06/28/18	02/26/19
				N/A	N/A
				N/A	N/A
				09/05/18	03/01/19
				N/A	N/A
				09/19/18	02/28/19
				N/A	N/A
				N/A	02/27/19
				10/25/18	02/27/19
				N/A	N/A
				09/05/18	02/28/19
				10/26/18	05/02/19
				N/A	03/06/19
				03/15/19	03/27/19
				03/08/19	03/05/19
				N/A	03/14/19
				02/19/19	03/22/19

Matter	Case Name	Opened	Days Received to Close of Quarter	Circulation Date	Status Letter Date
				N/A	N/A
				12/14/18	N/A
				12/14/18	N/A
				N/A	04/09/19
				03/01/19	04/04/19
				12/20/18	04/09/19
				12/14/18	N/A
				N/A	04/25/19

Table 5. Statute of Limitations Sensitive Matters

Case #	Case Name	Tolling	Opened	Earliest SOL Date	Latest SOL Date	Current Stage
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Case #	Case Name	Tolling	Opened	Earliest SOL Date	Latest SOL Date	Current Stage
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Matter #	Name	Current Stage
		PPCC ongoing.
		PPCC ongoing.
		Investigation ongoing.
		PPCC ongoing.
		PPCC ongoing.
		PPCC ongoing.
		PPCC ongoing.
		PPCC ongoing.
		PPCC ongoing.
		PPCC ongoing.
		PPCC ongoing.
		PPCC ongoing.
		PPCC ongoing.
		PPCC ongoing.

Table 7. First General Counsel’s Reports Pending with the Commission

Matter	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
			04/01/16	02/08/17		313	1419	1004	09/25/18; 10/09/18; 10/11/18; 10/23/18; 10/25/18; 11/14/18; 11/15/18; 12/06/18; 12/13/18; 02/05/19; 02/07/19; 04/09/19; 04/11/19
			04/01/16	02/08/17		313	1371	1004	09/25/18; 10/09/18; 10/11/18; 10/23/18; 10/25/18; 11/14/18; 11/15/18; 12/06/18; 12/13/18; 02/05/19; 02/07/19; 04/09/19; 04/11/19
			02/15/17	05/15/17		89	774	685	07/11/17; 07/13/17 08/15/17; 08/17/17; 09/12/17; 09/14/17; 09/19/17; 09/20/17; 10/11/17; 10/12/17; 10/24/17; 10/26/17; 08/07/18
			05/05/16	10/23/17		536	1060	524	7/31/2018
			12/28/17	03/23/18		85	458	373	
			12/01/17	03/30/18		119	485	366	
			11/30/17	04/02/18		123	486	363	
			12/05/17	04/04/18		120	481	361	09/25/18; 10/09/18; 10/11/18; 10/23/18; 10/25/18
			02/09/18	05/03/18		83	415	332	07/07/18; 09/25/18; 10/09/18; 10/11/18; 10/23/18; 10/25/18
			03/03/17	05/24/18		447	758	311	04/09/19; 04/11/19; 04/23/19; 04/25/19
			03/03/17	05/24/18		447	758	311	04/09/19; 04/11/19; 04/23/19; 04/25/19

Matter	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
			11/02/17	06/22/18		232	514	282	09/25/18; 10/09/18; 10/11/18; 10/23/18; 10/25/18; 11/14/18; 11/15/18
			12/22/17	06/25/18		185	464	279	09/25/18; 10/09/18; 10/11/18; 10/23/18; 10/25/18
			04/11/18	06/28/18		78	354	276	
			10/25/16	08/23/18		667	887	220	
			05/29/18	09/05/18		99	306	207	
			05/29/18	09/05/18		99	306	207	
			05/29/18	09/05/18		99	306	207	
			08/31/18	09/05/18		5	212	207	
			05/22/18	09/19/18		120	313	193	04/09/19; 04/11/19;04/23/19; 04/25/19
			07/19/18	10/15/18		88	255	167	12/06/18
			07/19/18	10/15/18		88	255	167	12/06/18
			08/16/18	10/16/18		61	227	166	
			04/20/17	10/17/18		545	710	165	03/26/19; 03/28/19; 04/09/19; 04/11/19; 04/23/19; 04/25/19
			04/20/17	10/17/18		545	710	165	03/26/19; 03/28/19; 04/09/19; 04/11/19; 04/23/19; 04/25/19
			04/20/17	10/17/18		545	710	165	03/26/19; 03/28/19; 04/09/19; 04/11/19; 04/23/19; 04/25/19
			04/20/17	10/17/18		545	710	165	03/26/19; 03/28/19; 04/09/19; 04/11/19; 04/23/19; 04/25/19
			06/12/17	10/17/18		492	657	165	03/26/19; 03/28/19; 04/09/19; 04/11/19; 04/23/19; 04/25/19
			06/27/18	10/25/18		120	277	157	

Matter	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
			07/10/18	10/26/18		108	264	156	
			08/30/18	10/30/18		61	213	152	
			07/03/18	10/31/18		120	271	151	
			07/11/18	11/08/18		120	263	143	
			07/11/18	11/08/18		120	263	143	
			09/14/18	12/07/18		84	198	114	
			09/18/18	12/11/18		84	194	110	
			07/05/18	12/14/18		162	269	107	02/05/19; 02/07/19; 03/19/19; 03/26/19; 03/28/19; 04/09/19; 04/11/19; 04/23/19; 04/25/19
			07/05/18	12/14/18		162	269	107	02/05/19; 02/07/19;03/19/19; 03/26/19;03/28/19; 04/09/19; 04/11/19; 04/23/19;04/25/19
			07/05/18	12/14/18		162	269	107	02/05/19; 02/07/19; 03/19/19; 03/26/19; 03/28/19; 04/09/19; 04/11/19; 04/23/19; 04/25/19
			07/05/18	12/14/18		162	269	107	02/05/19; 02/07/19; 03/19/19; 03/26/19; 03/28/19; 04/09/19; 04/11/19; 04/23/19; 04/25/19
			09/28/18	12/20/18		83	184	101	
			11/15/18	02/13/19		90	136	46	
			06/22/17	02/19/19		607	647	40	
			06/22/17	02/19/19		607	647	40	
			10/22/18	02/19/19		120	160	40	
			10/18/18	02/19/19		124	164	40	
			10/19/18	02/19/19		123	163	40	
			07/09/16	02/21/19		957	995	38	
			11/30/18	02/22/19		84	121	37	

Matter	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
			11/14/19	02/25/19		-262	-228	34	
			11/24/18	02/27/19		95	127	32	
			10/12/18	02/28/19		139	170	31	03/26/19; 03/28/19; 04/09/19; 04/11/19; 04/23/19; 04/25/19
			11/01/18	03/01/19		120	150	30	
			08/16/18	03/08/19		204	227	23	
			08/09/18	03/15/19		218	234	16	
			12/16/18	03/18/19		92	105	13	
			11/21/18	03/21/19		120	130	10	
			11/23/18	03/25/19		122	128	6	
			01/04/18	03/18/19		438	451	13	

Table 8. Foreign National Matters Pending with the Commission

Matter #	Primary Respondent	Complainant(s)	Receipt	Assigned	Last Response	Status	Dates to DOJ	Country	Earliest SOL
				01/27/15					
				04/20/17					
				03/03/17					
				03/03/17					
				10/02/17					
				09/08/17					
				10/02/17					
				10/02/17					
				10/02/17					
				01/04/18					
				06/17/18					
				10/02/17					
				01/25/19					
				05/22/18					
				07/05/18					

Matter #	Primary Respondent	Complainant(s)	Receipt	Assigned	Last Response	Status	Dates to DOJ	Country	Earliest SOL
				N/A					
				01/19/19					