

(Unapproved and Subject to Change)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

September 22, 2011

CALL TO ORDER

Chair Ann Ravel called the meeting to order at 10:00 AM at 428 J Street, Eighth Floor, Sacramento, California. Chair Ravel, Commissioners Ronald Rotunda, Lynn Montgomery, and Elizabeth Garrett were present.

Chair Ravel announced that Commissioner Eskovitz was unable to attend the Commission meeting due to a court obligation.

Chair Ravel gave a brief overview of the goals of the FPPC. Resources have been shifted to greater transparency and education to the public.

1. Public Comment.

This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed; request clarification; or refer the item to staff.

Chair Ravel asked if anyone in the audience had comments on any items not on the agenda. There were no comments at this time.

Chair Ravel asked the Commissioners if they had any comments or questions on any of the items, and if there were any items they wanted removed from the consent calendar.

Commissioner Garrett had questions regarding items 15, 19, & 36-51. She also thanked the Enforcement Division for their memo regarding the CalPERS items.

Gary Winuk, Chief of Enforcement clarified that the Enforcement Division will take the anonymous comments into consideration for item 15.

Commissioner Garrett asked for clarification on Item 19 for the reason behind the fine being set at only \$3,000. Gary Winuk, Chief of Enforcement responded by explaining that in this matter, there were two counts reduced to only one.

Gary Winuk, Chief of Enforcement gave a brief overview of the history behind the investigations into the CalPERS cases.

Commissioner Garrett explained that the items 15, 19, & 36-51 could go back on the consent calendar.

PROPOSED CONSENT CALENDAR

2. Approval of June, 2011 Commission meeting minutes.

Campaign Reporting Violations

3. In the Matter of Charles R. Brehmer, Brehmer for Judge and Jon W. Parnell, FPPC No. 10/591. Total Proposed Penalty: \$5,500.
4. In the Matter of Sergio Casanova and Alhambra Firefighter's PAC; FPPC No. 10/521 (Default Decision). Total Proposed Penalty: \$7,500.
5. In the Matter of Cindy Finerty, Committee to Elect Cindy Finerty, and Debbi Hall, FPPC No. 10/947. Total Proposed Penalty: \$2,500.
6. In the Matter of Ben Hueso, Ben Hueso for State Assembly 2010, and Nancy Haley, Treasurer, FPPC No. 10/1041. Total Proposed Penalty: \$2,000.
7. In the Matter of Stuart Waldman, Friends of Stuart Waldman, and Kinde Durkee; FPPC No. 10/643. Total Proposed Penalty: \$8,000.

Campaign Reporting Violations - Streamline Program

8. In the Matter of Asian American Political Empowerment Committee, Buu Thai, Treasurer; FPPC No. 09/0221. Total Proposed Penalty: \$200.
9. In the Matter of Citizens for Integrity in Government and Armando Aravlozo, Treasurer, FPPC No. 11/274. Total Proposed Penalty: \$800.
10. In the Matter of City of Beaumont Candidate Victor Dominguez and Victor Dominguez for Beaumont City Council 2010, FPPC No. 11/197. Total Proposed Penalty: \$200.
11. In the Matter of Gabrielian for Glendale College, Anita Gabrielian, FPPC No. 11/325. Total Proposed Penalty: \$200.
12. In the Matter of Noel A. Jaimes; FPPC No. 10/658. Total Proposed Penalty: \$400.
13. In the Matter of Roberto Cruz, FPPC No. 10/1051. Total Proposed Penalty: \$200.
14. In the Matter of Philip Janzen, Committee to Elect Philip Janzen, FPPC No. 09/802. Total Proposed Penalty: \$400.

15. In the Matter of NorCal Grassroots for John Martinez, John Martinez, Treasurer, FPPC No. 10/357. Total Proposed Penalty: \$400.
16. In the Matter of Santa Barbara County Lincoln Club and Cory Bantilan, Treasurer; FPPC No. 10/989. Total Proposed Penalty: \$400.
17. In the Matter of the Tuolumne County Democratic Central Committee, and Joann M. Rascon, Treasurer, FPPC No. 11/285. Total Proposed Penalty: \$200.
18. In the Matter of Jennifer Villasenor, Committee to Elect Jennifer Villasenor, and Stephanie Villasenor, Treasurer; FPPC No. 09/397. Total Proposed Penalty: \$600.

Conflict of Interest

19. In the Matter of Jan Horton, FPPC No. 09/671. Total Proposed Penalty: \$3,000.

Gift Limit Violation

20. In the Matter of Bob Archuleta, FPPC No. 11/097. Total Proposed Penalty: \$1,500.

Lobbying

21. In the Matter of AMN Healthcare, Inc., FPPC No. 11/085. Total Proposed Penalty: \$1,600.
22. In the Matter of California Gaming Association, FPPC No. 11/137. Total Proposed Penalty: \$200.
23. In the Matter of California Youth Build Coalition, FPPC No. 10/677. Total Proposed Penalty: \$1,600.
24. In the Matter of Matt Gray and STS Ventures LLC, FPPC No. 11/086. Total Proposed Penalty: \$400.
25. In the Matter of Starbucks Coffee Company; FPPC No. 11/087. Total Proposed Penalty: \$200.

Major Donor – Streamline

26. In the Matter of William Abbott FPPC No. 11/467. Total Proposed Penalty: \$537.00.
27. In the Matter of Zelma Allred, FPPC No. 11/463. Total Proposed Penalty: \$400.00.

Mass Mailing

28. In the Matter of Peter Cuthbert, FPPC No. 10/1000. Total Proposed Penalty: \$2,500.
29. In the Matter of Paul Fickas and Decline to State Voter Guide, FPPC No. 10/959. Total Proposed Penalty: \$1,500.

Robocall Disclosure

30. In the Matter of Neighbors Opposing Tebbs, Eason & Haney for Fire Board 2010, and Thomas J. Francl, Treasurer, FPPC No. 10/1090. Total Proposed Penalty: \$1,500.

Statement of Economic Interests – Failure to File – Streamline

31. In the Matter of Justin Daddow, FPPC No. 10/1105. Total Proposed Penalty: \$400.
32. In the Matter of David Kim, FPPC No. 10/774. Total Proposed Penalty: \$400.
33. In the Matter of Mark Schott, FPPC No. 10/616. Total Proposed Penalty: \$400.

Statement of Economic Interests – Non-Reporting – Streamline

34. In the Matter of Gary Corlett, FPPC No. 11/095. Total Proposed Penalty: \$200.
35. In the Matter of David Hutt, FPPC No. 11/252. Total Proposed Penalty: \$800.

CalPERS - Statement of Economic Interests – Non-Reporting – Streamline

36. In the Matter of Jesus Arguelles, FPPC Case No. 11/367. Total Proposed Penalty: \$2,200.
37. In the Matter of Lyndall Baker; FPPC No. 11/370. Total Proposed Penalty: \$600.
38. In the Matter of Sarah Corr, FPPC Case No. 11/377. Total Proposed Penalty: \$1,600.
39. In the Matter of Richard Duffy, FPPC Case No. 11/385. Total Proposed Penalty: \$400.
40. In the Matter of Michael Dutton, FPPC Case No. 11/386. Total Proposed Penalty: \$2,200.

41. In the Matter of Robert Eberhardt, FPPC Case No. 11/387. Total Proposed Penalty: \$400.
42. In the Matter of Rob Feckner, FPPC Case No. 11/388. Total Proposed Penalty: \$400.
43. In the Matter of Alfonso Fernandez, FPPC Case No. 11/389. Total Proposed Penalty: \$400.
44. In the Matter of Shaun "John" Greenwood, FPPC Case No. 11/390. Total Proposed Penalty: \$3,600.
45. In the Matter of Sue Kane, FPPC Case No. 11/396. Total Proposed Penalty: \$200.
46. In the Matter of Dennis Knueven, FPPC Case No. 11/399. Total Proposed Penalty: \$800.
47. In the Matter of Joncarlo Mark, FPPC Case No. 11/403. Total Proposed Penalty: \$1,400.
48. In the Matter of Dave Merwin, FPPC No. 11/405. Total Proposed Penalty: \$2,400
49. In the Matter of Louis F. Moret, FPPC No. 11/406. Total Proposed Penalty: \$400.
50. In the Matter of Mary Morris, FPPC No. 11/437. Total Proposed Penalty: \$200.
51. In the Matter of Omid Rezania, Investment Officer, California Public Employees Retirement System. FPPC No. 11/410. Total Proposed Penalty: \$2,400.

Commissioner Garrett moved to approve the consent calendar.

The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.
The motion passed 4 to 0.

RE-HEARING

52. In the Matter of Frank Molina and Strategic Solutions Advisors; FPPC No. 09/807. Total Proposed Penalty: \$30,000.

Lance Olson, counsel for Mr. Molina, requested that this matter be heard at the November 10, 2011 Commission meeting.

Commissioner Rotunda moved to hold item 52 over to the November meeting.

The motion was seconded by Commissioner Garrett.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

ITEMS REMOVED FROM THE CONSENT CALENDAR

53. Amendments to Regulation 18404.1 – Termination and Reopening of Committees. Staff: General Counsel Zackery P. Morazzini and Commission Counsel Sukhi Brar. Staff proposes amendments to Regulation 18404.1 to allow committees that have terminated to accept refunds from governmental entities and accept unexpected refunds from any other entities totaling \$10,000 or less after termination and transfer them to other committees as if the refunds had been received prior to termination. A committee receiving a refund would not be required to reopen, nor would the refund be required to be deposited in the terminated committee's bank account. If the refund is transferred to a new committee, it would be reported as if it had been received before termination and attributed accordingly.

Commissioner Garrett moved to approve amendments to regulation 18404.1.

The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

54. Adoption of Regulation 18215.3: Behested Payment Reporting. Staff: General Counsel Zackery P. Morazzini and Commission Counsel Heather M. Rowan. Staff proposes adoption of Regulation 18215.3 to clarify that listing an elected officer or member of the Public Utilities Commission on a letterhead or roster does not create a payment "made at the behest of" that officer or member. If the letter "features" (as defined) the individual, however, the payment could be reportable as a behested payment if over \$5,000 by a single source.

Phillip Ung submitted comments on behalf of Common Cause. Their foremost concern is the proposed definition of what is or is not a payment made in behest of a public official. They believe the definition in FPPC regulation 18901 (c)(2) is not sufficient to comprehensively encompass what they believe should be considered behested payments.

Secondly, Common Cause would encourage the Commission to require reporting of behested payments if the public official is in a position of financial control of a non-profit, whether it be an Executive Board or finance committee position. The general concern is

a public official may not be the source of the request, it should be considered a behested payment if they have control of how the donation funds are spent.

Additionally, Common Cause has concerns with the \$5,000 reporting threshold.

Commissioner Rotunda moved to postpone regulation 18215.3.

The motion was seconded by Commissioner Garrett.

Ayes: Commissioners Rotunda, Garrett, and Chair Ravel.

Nos: Commissioner Montgomery

The motion passed 3 to 1.

- 55. Adoption of Regulation 18237 (changed from 18728.6) – Reporting of Investments. Staff: General Counsel Zackery P. Morazzini and Commission Counsel Val Joyce.** Staff proposes adoption of Regulation 18728.6 to treat investments in funds that share certain key characteristics with diversified mutual funds the same for purposes of the reporting exemption of diversified mutual funds under Section 82034 of the Political Reform Act.

Regulation 18237, which sets forth exceptions to the term “investment,” was adopted with the following changes from the version presented to the Commission:

The requirement that the exception for a public official who influences or controls the selection of any specific investment on behalf of the official’s agency was changed to clarify that the exception applies if the public official has not invested public moneys in a specific fund.

Commissioner Garret moved to make the above changes to Regulation 18237

Commissioner Rotunda seconded the motion.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

Commissioner Garrett moved to adopt Regulation 18237 with the proposed changes.

The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

- 56. Discussion Item: September 2011 - Work Plan Revisions. Staff: General Counsel Zackery P. Morazzini and Assistant General Counsel John W. Wallace.** This memorandum updates the Commission on the progress of the 2011 regulatory calendar.

- 57. Approval of Forms 804 and 805- Form 700, Statement of Economic Interests, Disclosure Documentation for Consultants and Individuals**

Serving in Newly Created Positions. Staff: Lynda Cassady, Chief, Technical Assistance Division. Staff will request approval of the Forms 804 and 805. The voluntary forms provide a uniform reporting document for state and local agencies. The forms can be used to comply with FPPC Regulation 18734 which requires separate written documentation of disclosure requirements when individuals serve in positions that are not listed in the agency's conflict-of-interest code. (Memorandum) (Form 804) (Form 805) (Regulation 18734).

Commissioner Rotunda moved to adopt forms 804 and 805

The motion was seconded by Commissioner Garrett.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

58. Legislative Report. Staff: Legislative Coordinator, Tara Stock – As Submitted.

59. Litigation Report. Staff: General Counsel, Zackery P. Morazzini - As Submitted.

Division Reports

60. Legal Division. Staff: General Counsel, Zackery P. Morazzini - As Submitted.

61. Enforcement Division. Staff: Chief of Enforcement, Gary Winuk - As Submitted.

62. Technical Assistance Division. Staff: Chief of T.A.D., Lynda Cassady - As Submitted.

63. Administration Division. Staff: Chief of Administration, Tina Bass - As Submitted.

CLOSED SESSION

64. Discussion of Personnel. (Gov. Code § 11126(a)(1)).

65. Pending Litigation (Gov. Code § 11126(e)(1)).

ProtectMarriage.com, et al. v. Debra Bowen, et al. (Unites States District Court, Eastern District of California, Case No. 2:09-cv-00058- MCE-DAD).

Dated: 6-14-11

Adrienne Tackley, Commission Assistant

Approved: _____
Ann Ravel, Chair
Fair Political Practices Commission