



(Unapproved and subject to change)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
October 15, 2020
10:00 a.m.

Present: Chair Miadich, Commissioner Cardenas, Commissioner Hatch, and Commissioner Wilson

Staff Present: Galena West, Executive Director
Dave Bainbridge, General Counsel
Loressa Hon, Chief of Administration
Kevin Cornwall, Commission Counsel
Lindsey Nakano, Legislative Counsel
Sasha Linker, Commission Assistant

A. Call to Order.

Chair Miadich called the meeting to order at 10:01 a.m.

B. Public Comment for Items not on Agenda.

Steven Petzold mentioned that stipulation 19-475 was not brought back on the agenda and wanted to hear an update from the Chief of Enforcement. Chair Miadich stated that the Enforcement Division is in the process of gathering all the information and the stipulation will be presented back to the full Commission when the investigation is complete.

C. Approval of September 2020 Commission Hearing Minutes.

MOTION: To approve the September 2020 meeting minutes. Moved by Commissioner Hatch, seconded by Commissioner Wilson. Motion approved 4-0.

D. Approval of Enforcement Consent Calendar.

MOTION: To approve the Enforcement Consent Calendar. Moved by Commissioner Wilson, seconded by Commissioner Hatch. Motion approved 4-0.

E. Notice of Intent to Present Default Decision and Order at the November Commission Meeting.

Galena West, Executive Director, commended staff for moving these cases forward and stated there has not been any participation from the respondents.

F. Repeal and Amendment of Regulations Governing Enforcement Processes.

Dave Bainbridge, General Counsel, proposed changes to various regulations governing enforcement matters and stated that the goal was to update and improve the processes. The regulations would simplify the probable cause process and clarify how the process works for unrepresented parties. Mr. Bainbridge recommended the Commission adopt the regulation package with a minor revision to Regulation 18361.5, Page 1, Line 20, changing the word “he” to “the”.

Chair Miadich recommended that Staff go through the regulations to confirm that it is written with gender neutral language before it is sent for final copy and recommended Staff delete the word “sufficient” on Regulation 18404.2, Page 1, Line 20. The Commission proposed an effective date for the regulation package of January 1, 2021.

Chuck Bell, Bell, McAndrews & Hiltachk, spoke on behalf of the CPAA Enforcement Committee. Mr. Bell wanted to reiterate the points given in the submitted comment letter, particularly the issues involving probable cause conferences.

Mike Columbo, Nielsen Merksamer, recommends a requirement of the disclosure of evidence regardless of how its obtained and to commit hearing officers to address discovery disputes and urged the Commission to hold this rule making over to allow greater public participation.

MOTION: To adopt proposed Regulations contained in Item 12 subject to the changes discussed with an effective date of January 1, 2021. Moved by Commissioner Hatch, seconded by Commissioner Cardenas. Motion approved 4-0.

G. Commissioner Code of Conduct.

Kevin Cornwall, Commission Counsel, presented the Commission Code of Conduct that would update and replace the Commission manual. Staff has drafted the code of conduct with the goal of distinguishing expressed legal requirements, Commission policies, interpretations and analysis, and best practices. A minor change that was included in the updated Code of Conduct regarding the political activities in Section 83105, Page 3, to clarify that Commissioners are prohibited to seek elections to office not just while on the Commission, but even if they were to resign early at the request of Commissioner Cardenas.

MOTION: To approve the Commissioner Code of Conduct. Moved by Wilson, seconded by Commissioner Cardenas. Motion approved 4-0.

H. Legislative Update.

Lindsey Nakano, Legislative Counsel, stated that AB 2151 was signed by the Governor and chaptered. Staff has been researching and drafting language for the proposed legislative slate and are beginning the process of reaching out to potential authors. The legislature is set to reconvene on January 4, 2021 and there is currently not anything on the Legislative calendar for the rest of the year.

I. Committee Updates.

Chair Miadich stated that the Law and Policy committee heard interested person feedback on the Regulations for the Enforcement process and recommended adoption. Interested person feedback was received on the pre-noticed amendments to the regulations governing the streamline and warning letter program. An update on behested payment research was discussed with a focus on the process for how state officials report behested payments. Staff recommended that the Commission pursue legislation which would streamline the filing process and allow for the electronic filing of behested payments. Commissioner Cardenas suggested a presentation on new

ideas and process for setting the part-time Commissioner compensation at the next Law and Policy Committee meeting.

J. Executive Staff Reports.

Galena West, Chief of Enforcement, stated that there have been 203 pre-election referrals received from the proactive program with 6 that have gone to attorneys for contact. There have been 712 complaints received since the primary election and 725 referrals received. Ad watch had 126 submissions. The trends seen have been mostly related to the ballot measure campaigns and ad watch complaints received related to digital ads.

Ms. West provided an update on the College of the Canyons case and stated the Enforcement Division has been adding additional complaints received into the ongoing investigation.

Dave Bainbridge, General Counsel, stated that there have been numerous telephone calls, emails, and questions about filing obligations.

Loressa Hon, Chief of Administration, stated that staff has converted most of the word documents on advice letters into pdf documents and acquired a software license to provide staff the security protection for Enforcement documents. Staff also acquired the license for website traffic metrics and have been instructed to schedule a quarterly report to review the data and share among staff. Ms. Hon added that there are approximately 350 Form 700s that have not been filed, down from 400 the month prior, and are being referred to Enforcement for non-filing.

Galena West, Executive Director, stated that there have been applications and interviews are scheduled for the Chief of Enforcement position and will be giving an update at the November Commission meeting. The Digital Transparency Task Force have also scheduled a meeting in late November.

K. Commissioner Comments and Proposed Future Agenda Items.

Chair Miadich reminded Staff and the public that the Secretary of State is working on their Cal-Access Replacement System that is scheduled to go live February 2021. While Staff has been working to identify regulations that might need to be updated in correlation with the new system, the public is welcome to reach out if they had ideas about regulation changes.

L. Adjourn.

MOTION: To adjourn the meeting. Moved by Commissioner Wilson, seconded by Commissioner Cardenas. Motion approved 4-0.

The meeting concluded at 12:08 p.m.

Respectfully Submitted,
Sasha Linker
Commission Assistant
Approved November 10, 2020

Richard C. Miadich, Chair
Fair Political Practices Commission