



(Unapproved and subject to change)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Thursday, January 26, 2023
10:00 a.m.

Present: Chair Miadich, Commissioner Baker, Commissioner Wilson, and Commissioner Wood

Staff Present: Galena West, Executive Director
Christopher Burton, Assistant Chief of Enforcement
Dave Bainbridge, General Counsel
Shrdha Shah, Chief of Audits and Assistance
Loressa Hon, Chief of Administration
Lindsey Nakano, Senior FPPC Legislative Counsel
Sasha Linker, Commission Assistant

Call to Order.

Chair Miadich called the meeting to order at 10:00 AM.

Chair Miadich stated Dr. Gomez is resigning from the Commission effective immediately and updated that Angela Brereton has returned to being an Assistant Chief of Enforcement.

2. Approval of Commission Minutes.

MOTION: To approve the November 2022 meeting minutes. Moved by Commissioner Wilson; seconded by Commissioner Baker. The motion passed 4-0.

3. Approval of Commission Minutes.

MOTION: To approve the December 2022 meeting minutes. Moved by Commissioner Wilson; seconded by Commissioner Baker. The motion passed 3-0, with Commissioner Wood abstaining.

4, 7-10. Consent Calendar.

Commissioner Baker asked for items five and six to be pulled from consent. Commissioner Wood asked for item 11 to be removed from consent.

MOTION: To approve the consent calendar. Moved by Commissioner Wood; seconded by Commissioner Wilson. The motion passed 4-0.

5. In the Matter of William Dodd; FPPC No. 19/439.

Commissioner Baker asked about the references in the stipulation that caused the reporting error which is stated as a clerical error and asked what the nature of the clerical error was. Christopher Burton, Assistant Chief of Enforcement, did not have the answer for this specific stipulation but gave an overview of why this language could have been used.

Commissioner Baker asked why this case took longer than a year to resolve since the reporting did happen without prompting. Mr. Burton gave various reasons why a case may take longer than others. Chair Miadich asked if any of the provided reasons applied to this case. Mr. Burton was not aware if the listed reasons applied to the case.

Chair Miadich asked who the filing officer was who made the referral. Mr. Burton stated the FPPC. Chair Miadich asked that stipulations state if the referral is from the FPPC in the future.

Chair Miadich asked if the counts were required to be excluded from streamline. Mr. Burton stated they were not required but the case was excluded because [it didn't meet the criteria regarding] of the amount of money and one of the reports exceeding the threshold.

MOTION: To approve the stipulation. Moved by Commissioner Baker; seconded by Commissioner Wood. The motion passed 4-0.

6. In the Matter of Dirk Starbuck; FPPC No. 18/297.

Commissioner Baker asked if there is any affect the stipulation has on the underlying decisions made by Mr. Starbuck. Mr. Burton stated unlike 1090, a Commission stipulation does not have impact to change the city ordinance and stated the Commission's only recourse is administrative fines.

Chair Miadich discussed count two and asked if the conflict only occurs when the council votes or could the Commission have charged each meeting the Councilmember participated. Mr. Burton stated it could have been charged by participation but using discretion, there was only one charge.

Commissioner Wilson asked if the fine is paid by the individual or by the committee. Mr. Burton stated he is unsure who is paying in this case, but that Staff doesn't have a say in who pays the fines.

MOTION: To approve the stipulation. Moved by Chair Miadich; seconded by Commissioner Wilson. The motion passed 4-0.

11. Regulation Projects and Schedule for 2023.

Commissioner Wood asked for a brief overview of the collection of enforcement penalties and contributions to a candidate not appearing in a general election regulation ideas. Dave Bainbridge, General Counsel, gave detail to the two presented regulation ideas discussing the agencies collection process and the small changes that will fill the cracks found in current law surrounding contributions to a candidate not appearing in a general election.

Chair Miadich stated under the administrative subpoena regulation idea, the source is listed as Chair, and the source should be listed as Enforcement Staff as well.

MOTION: To approve the Regulation Projects and Schedule for 2023 Moved by Chair Miadich, seconded by Commissioner Wood. The motion passed 4-0.

12. Legislative Development.

Lindsey Nakano, Senior Legislative Counsel, gave an update on introduced bills that would affect the agency.

Commissioner Baker asked for details on how clean-up bills work. Ms. Nakano stated the Assembly Ethics Committee generally authors the clean-up bill and discussed how ideas for clean-up bills are brought forward.

13. FY 2023/2024 Budget.

Loressa Hon, Chief of Administration, presented the 2023/2024 Fiscal Year budget.

Commissioner Wilson asked how this budget compares to prior years budget in terms of growth. Ms. Hon stated this budget has an increase of 13 new positions since last year which is the highest the Commission has received at one time. Chair Miadich stated seven of those new positions are going to Enforcement.

Commissioner Baker asked for an update on the status of compliance and costs in relation to ADA. Ms. Hon stated any expenses for ADA compliance come out of the overall expenses. Commissioner Baker stated the budget reflects the costs into the coming year. Ms. Hon stated that is correct, the costs are absorbed in the operating expenses allocation. Chair Miadich clarified that additional money was not received for these costs but that any money spent is absorbed by our operating expense budget.

Commissioner Wilson asked if Staff has discussed compliance with other agencies and departments to help utilize resources. Ms. Hon stated she would provide that information in the next update on ADA.

14. Enforcement Division Update.

Christopher Burton, Assistant Chief of Enforcement, presented the Enforcement Division Update.

Chair Miadich asked how many of the AdWatch submissions resulted in cases being opened. Mr. Burton stated he doesn't have a specific figure but that the ultimate goal is compliance before the election. Chair Miadich stated he would also like to know the resolution of the 261 submissions.

Chair Miadich asked what the average lifespan of proactive preelection outreach is. Mr. Burton stated he would report back the answer to that question but that it depends on the individual being contacted.

Chair Miadich asked if a proactive preelection outreach is successful, the person files, and a warning letter is issued, is that reported as a referral received, and case closed in the Executive Staff Report. Mr. Burton stated yes.

Commissioner Wood asked for more granularity in the AdWatch numbers to include the success rate.

Commissioner Baker asked for clarification on how bad filing officer referrals attributes to statute of limitations running. Mr. Burton described receiving referrals for SEI that are five years past any filing obligation, so the case is then closed.

Commissioner Wilson asked if a referral is received and the statute of limitations is about to run, are those cases prioritized. Mr. Burton stated yes. Galena West, Executive Director, stated the Legal Division just finalized a regulatory change that should help with receiving bad referrals.

Chair Miadich asked if the streamline statistics are shared with the PREP program. Ms. West stated the information is shared with the PREP program so that they can prioritize new programs.

Commissioner Wood asked how many cases were in streamline in 2022 and what is the capacity to double that number. Mr. Burton stated 142 total cases and that the division welcomes a higher capacity.

Chair Miadich asked where on the pie chart is behested payments. Mr. Burton stated behested payment cases are not high enough to appear on the chart.

Chair Miadich asked if referrals received in the Median Case Pendency chart includes referrals received from the FPPC. Mr. Burton responded yes.

Commissioner Baker asked how many sworn complaints go beyond the 14-day timeline to resolve the complaint. Mr. Burton stated he doesn't have the data but would bring that back in the future.

Commissioner Wilson asked why there was a spike in complaints over the last five to seven years. Ms. West responded she believes it is better education of filing officers and general public interest in politics. She also said that in addition, complaints take longer to process and analyze as the complexity of the Act increases.

Commissioner Baker asked if the presented organization chart is fluid based on conversations. Ms. West stated that yes, the organization chart will be modified based on discussions with staff and review after implementation. Ms. West also addressed confusion about auditors being able to be assigned to Enforcement cases noting that it has been discussed with the special investigators to clarify the procedures.

15. Policy Directive re Enforcement Division.

Chair Miadich discussed the proposed policy directives and why he is proposing the directives.

Commissioner Wilson stated he had some suggestions that might be more useful for a Public Outreach and Technology meeting in the future.

Commissioner Wood discussed performance targets in comparison to touching Enforcement procedure stating this approach might be more helpful in addressing the red tape concerns.

Commissioner Baker stated her hopes that the directives have teeth rather than sitting on a shelf forgotten.

She further explained her belief that cases shouldn't be overlooked, corners should not be cut, or cases

should not be compromised to clear the backlog. Substantively, Commissioner Baker asked if there is a way to identify cases where compliance has happened, but Staff hasn't gotten to closing the case in order to help clear the backlog. Ms. West stated she has already discussed this idea with the Assistant Chiefs but cautioned the Commissioners that more discretion will need to be applied as the Enforcement Division works through the backlog.

Chair Miadich stated he believes the Enforcement Division has discretion and today's discussion is an attempt to empower that discretion but if the conversation is that the Division needs more discretion, that needs to be communicated to the Commission so there can be a proper look and discussion.

Commissioner Baker asked Ms. West to clarify the meaning of her comment about amnesty being a possibility. Ms. West stated she believes discretion will need to be stretched more. Ms. West then went over the numbers of existing open cases older than 2021 and described that these long-standing cases have all been worked but usually they aren't closing because the Respondent isn't settling and usually they aren't settling over money. Ms. West believes that discretion might need to be used to remove counts or drop fines to resolve those cases. Chair Miadich stated that may be true for some cases, that is not the only way and said that those cases could go to hearing. Ms. West agreed but further stated that if the Commission wants more resources used to go to hearing, then that's the direction Staff needs to hear.

Commissioner Wood asked when we became aware that we received the new positions. Ms. Hon stated this information was public when the Governor's budget became public on January 10, 2023.

MOTION: To approve the policy directives. Moved by Chair Miadich, seconded by Commissioner Baker. The motion passed 4-0.

17. Executive Staff Reports.

The Executive Staff Reports were accepted as submitted.

1. Public Comment for Items not on Agenda.

Dale Helvig gave public comment asking for an update on an enforcement case.

16. Commissioner Comments and Proposed Future Agenda Items.

Commissioner Baker would like a presentation of the cost and status of the agencies ADA compliance of the FPPC website.

MOTION: To Adjourn the meeting. Moved by Commissioner Wood; seconded by Commissioner Wilson. The motion passed 4-0.

The meeting adjourned at 12:16 p.m.

Respectfully Submitted,
Sasha Linker
Commission Assistant
Approved February 6, 2023

Richard C. Miadich, Chair
Fair Political Practices Commission