

[Unapproved and Subject to Change]  
**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION**  
**MINUTES OF MEETING, Public Session**

**October 8, 2009**

**Call to Order.** Chairman Ross Johnson called the meeting to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California, and introduced the FPPC's newest commissioner, Elizabeth Garrett, appointed by Secretary of State Debra Bowen. Chairman Johnson and Commissioners Elizabeth Garrett, Tim Hodson, Lynn Montgomery, and Ron Rotunda were present.

- 1. Public Comment.** This portion of the meeting is reserved for comments on items not on the agenda. Under the Bagley-Keene Open Meeting 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.

There were none.

**PROPOSED CONSENT CALENDAR - ITEMS 2 THROUGH 16**

The Chairman asked if the Commissioners had comments on any items on the consent calendar. There were none.

Chairman Johnson asked if anyone in the audience had comments regarding any items on the consent calendar. Ken Bukowski spoke on his own behalf on Item 3, in which he was the respondent.

Moved by Commissioner Garrett and seconded by Commissioner Rotunda to approve the consent calendar as proposed by staff.

AYES: Commissioners Rotunda, Garrett, Hodson, Montgomery, and Chairman Johnson. The motion passed 5-0.

- 2. Approval of September 10, 2009, Commission meeting minutes.**
- 3. In the Matter of Ken Bukowski and Citizens to Elect Ken Bukowski, FPPC No. 06/029. (11 counts) Total Monetary Penalty: \$15,500.**
- 4. In the Matter of Citizens for Representative Government, Allan Hoffenblum, and Randy Goodwin, FPPC No. 08/103. (5 counts) Total Monetary Penalty for all Respondents: \$5,000.**
- 5. In the Matter of Barbara Dore and Dore for Water Board, FPPC Nos. 05/739; 08/592; 08/218; 09/192. (11 counts) Total Monetary Penalty: \$30,500.**

6. **In the Matter of Agnes Gund, FPPC No. 06/751.** (1 count) **Total Monetary Penalty: \$3,500.**
7. **In the Matter of Maria G Lopez, Campaign to Elect Maria Lopez, and Adolph J. Lopez, FPPC No. 06/379.** (3 counts) **Total Monetary Penalty: \$8,500.**
8. **In the Matter of Thomas Dominguez, FPPC No. 07/248.** (3 counts) **Total Monetary Penalty: \$6,000.**
9. **In the Matter of Dean Andal, Citizens for Andal, Citizens for Andal-Lincoln Unified, and Larry Solari, FPPC No. 05/703.** (1 count) **Total Monetary Penalty: \$9,500.**
10. **In the Matter of Lawrence Barrett, FPPC No. 09/441.** (1 count) **Total Monetary Penalty: \$400.**
11. **In the Matter of Tejinder Dosanjh, FPPC No. 09/527.** (1 count) **Total Monetary Penalty: \$200.**
12. **In the Matter of Hamid Shamsapour, FPPC No. 09/572.** (1 count) **Total Monetary Penalty: \$200.**
13. The following entity has entered into stipulation for failing to timely file a major donor report and a late contribution report, in violation of Government Code Sections 84200 and 84203:  
  

**In the Matter of CIM Group, Inc. and its affiliated entity CIM Group, LLC., FPPC No. 09/621.** (3 counts) **Total Monetary Penalty: \$1,200.**

**In the Matter of CIM Group, Inc. and its affiliated entity CIM Group, LLC.** (2 counts) **Total Monetary Penalty: \$525.**
14. **In the Matter of Kevin F. Donohue, FPPC No. 06/877.** (1 count) **Total Monetary Penalty: \$3,000.**
15. **In the Matter of Mike Henry, FPPC No. 06/1085.** (1 count) **Total Monetary Penalty: \$2,000.**
16. **In the Matter of Joet Stoner, FPPC No. 06/1065.** (1 count) **Total Monetary Penalty: \$460.**

**GENERAL ITEMS 17 THROUGH 24**

17. **In the Matter of Henry Hohenstein, FPPC No. 05/489.** Staff: Staff Counsel IV Melodee A. Mathay and Senior Special Investigator Sandra Buckner. Respondent Hohenstein was a member of the Desert Hot Springs City Council from December 2003 through December 2007. In this matter, Respondent Hohenstein violated the conflict of interest provisions of

the Political Reform Act in December 2004 and February 2005, by making and participating in making six governmental decisions which had a reasonably foreseeable material financial effect on his interest in real property. By failing to disqualify himself from these governmental decisions, Respondent Hohenstein committed six violations of Government Code section 87100 (6 counts). Following a one-day administrative hearing in Los Angeles, Administrative Law Judge Humberto Flores issued a proposed decision finding that six violations occurred, and imposing an administrative penalty of \$18,000. The Enforcement Division filed an opening brief requesting that the Commission accept the proposed decision in its entirety. Respondent did not file a written response to that request by the agreed-upon filing date of August 7, 2009. The Commission may hear argument on the proposed decision, and may then consider the matter in closed session.

Chairman Johnson asked if the Commissioners had any comments. There were none.

The Chairman asked if anyone in the audience had comments. Henry “Hank” Hohenstein spoke on his own behalf, as the respondent in this matter.

Commissioners Garrett, Hodson, Montgomery, and Rotunda asked questions, which were answered by Gary Winuk, Chief of Enforcement.

Chairman Johnson advised that the Commission would further discuss this matter in executive session, as noticed, and would announce any action taken at the conclusion of executive session.

**18. Adoption of Proposed Amendment to Regulation 18944.3 and Proposed Regulation 18944.4 — Clarifying Rules Relating to Agency Gifts.** Staff: Senior Commission Counsel William J. Lenkeit and General Counsel Scott Hallabrin. In 2008, the Commission amended the “gifts to agency” rules under Regulations 18944.1, 18944.2 and added Regulation 18944.3. The new rules were adopted, in part, to address the fact that certain items being provided by an agency to an agency employee were to be considered gifts under the Act. The proposed amendment to Regulation 18944.3 clarifies that the regulation, when applicable, only applies to an agency’s use of its own assets. The proposed new Regulation 18944.4 now addresses employee raffles, which was raised as an issue in an advice letter request submitted after the adoption of the 2008 regulatory changes. Current regulations do not address agency raffles.

The Chairman asked if the Commissioners had any comments or questions. Commissioners Montgomery and Rotunda asked questions about gifts which were answered by Mr. Lenkeit.

Chairman Johnson asked if anyone in the audience had comments in favor or in opposition to this item. There were none.

Moved by Commissioner Garrett and seconded by Commissioner Rotunda to adopt the amendment to Regulation 18944.3 and adopt Regulation 18944.4 as proposed by staff.  
AYES: Commissioners Rotunda, Garrett, Hodson, Montgomery, and Chairman Johnson.  
The motion passed 5-0.

**19. Adoption of Proposed Regulations 18219 and 18734 – Relating to Conflict of Interest Codes.** Staff: Commission Counsel Emelyn Rodriguez and General Counsel Scott Hallabrin. These changes assist in providing transparency in the financial disclosure by certain government agency employees and consultants who participate in the making of governmental decisions. Proposed Regulation 18219 clarifies that the term “designated employee,” as set forth in Section 82019, includes a consultant as defined under Regulation 18701(a)(2), and an employee in a newly-created position that the agency determines makes or participates in the making of decisions but whose specific position has not yet been added to the agency’s conflict-of-interest code. Proposed Regulation 18734 sets interim disclosure requirements for an employee in one of these newly-created positions pending the agency’s amendment of its code to formally add that position.

Chairman Johnson asked if the Commissioners had any questions or comments. Commissioners Garrett, Montgomery and Rotunda had questions which were answered by Ms. Rodriguez and Mr. Hallabrin.

Chairman Johnson asked if anyone in the audience had comments in favor or opposition to this item. There were none.

Moved by Commissioner Montgomery and seconded by Commissioner Hodson to adopt Regulations 18219 and 18734 as proposed by staff.

AYES: Commissioners Rotunda, Garrett, Hodson, Montgomery, and Chairman Johnson.  
The motion passed 5-0.

**20. Adoption of Proposed Amendments to Regulation 18351 – The Commission’s Conflict-of-Interest Code.** Staff: Technical Assistance Division, Assistant Chief Dixie Howard, Technical Assistance Division Chief Lynda Cassady, and General Counsel Scott Hallabrin. The Fair Political Practices Commission is amending its conflict-of-interest code as a result of new job classifications, job title revisions, and alterations to the scope of job duties for designated employees.

Chairman Johnson asked the Commissioners if they had any questions or comments. There were none.

He asked if anyone in the audience had comments in favor or opposition to this item. There were none.

Moved by Commissioner Garrett and seconded by Commissioner Rotunda to adopt the amendments to Regulation 18351 as proposed by staff.

AYES: Commissioners Rotunda, Garrett, Hodson, Montgomery, and Chairman Johnson.  
The motion passed 5-0.

**21. Discussion of who are “Dependent Children” under the Act.** Staff: General Counsel Scott Hallabrin. Staff sought guidance from the Commission on whether to continue with its long-standing informal definition of “dependent children” under the Act, in light of a

recently received request for written advice in which a public official was asking if it was permissible for an anonymous donor to pay the \$25,000 college tuition of the official's son.

Chairman Johnson asked if the Commissioners had any comments or questions. All the Commissioners expressed concerns regarding this issue.

The Chairman asked if anyone in the audience had comments on this item. Kathryn Donovan, with the Assembly Legislative Ethics Committee, said she was not speaking in an official capacity but that she wanted to provide a little background as a parent of a 19 year-old college student.

Moved by Commissioner Garrett and seconded by Commissioner Rotunda that staff deal with this letter as it has been dealing with such requests for advice under its current practices, and to prepare a regulation, formally defining "dependent child," for the Commission's consideration at its earliest opportunity.

AYES: Commissioners Rotunda, Garrett, Hodson, Montgomery, and Chairman Johnson.  
The motion passed 5-0.

**22. Legislative Report.** Staff: Legislative Coordinator Tara Stock. As submitted.

**23. Litigation Report.** Staff: General Counsel Scott Hallabrin. As submitted.

**24. Executive Director's Report.** Staff: Executive Director Roman Porter. As submitted.

**a. Resolution honoring Melodee A. Mathay, Staff Counsel IV, upon her retirement from State service.**

Chairman Johnson presented Ms. Mathay with a Resolution honoring her 20 years of dedicated service with the Fair Political Practices Commission. Starting with the Commission in February 1989, she was very instrumental in development of the policies in the Enforcement Division and served as a mentor to many attorneys in the Division. He said the Commission was proud of her and wished her well in her future endeavors.

The Chairman gave an update on the Subcommittee composed of Commissioners Garrett and Hodson. He mentioned at the last meeting that they would be looking into the issues of the "new electronic media" and its affect on political campaigns. Since the last meeting, they developed a mission statement and a schedule for what they intend to do, which would be available to the other commissioners and the public.

He advised there would be no meeting in November and the next meeting was December 10. The schedule for 2010 will be the second Thursday of every month but will be dark in the months of July and November.

Chairman Johnson recessed open session at 11:25 a.m. and advised they would immediately convene in executive session.

The Commission reconvened in open session at 12:10 p.m. Chairman Johnson reported the Commission affirmed the decision of the Administrative Law Judge in the Hohenstein matter.

With no further business coming before the Commission, the Chairman adjourned the meeting at 12:11 p.m.

Respectfully submitted,

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Beth Manwaring  
Commission Assistant

Approved:

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Ross Johnson  
Chairman