



FAIR POLITICAL PRACTICES COMMISSION

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CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION

MINUTES OF MEETING, Public Session

Thursday, September 19, 2013

CALL TO ORDER

Chair Ravel called the meeting to order at 10:00am on September 19, 2013 at the Fair Political Practices Commission, 428 J Street, Sacramento, CA 95814. Chair Ravel and Commissioners Eric Casher, Tricia Wynne, Gavin Hachiya Wasserman and Sean Eskovitz were present.

WELCOME AND CHAIR'S REPORT

Chair Ravel stated that the October Commission Meeting is cancelled. The next meeting is November 14th at 10:00am.

1. Public Comment

Chair Ravel opened the floor for public comment. James Chaffee addressed the Commission regarding the San Francisco Public Library.

Peter Warfield, Executive Director of Library Users Association, addressed the Commission regarding the Item #22 on the consent calendar. Chair Ravel stated she will pull that item from the consent calendar so Mr. Warfield could make a public comment. Mr. Warfield then addressed the Commission regarding the FPPC's Enforcement proceedings. Gary Winuk addressed Mr. Warfield's comments.

Commissioner Wasserman provided comments regarding a family friend, Kenneth Bay, who is currently in a North Korean labor camp.

PROPOSED CONSENT CALENDAR ITEM 2 - 42

2. Approval of August 2013 Commission Meeting Minutes.

Chair Ravel opened the floor to the Commission to remove or discuss an item from the Proposed Consent Calendar.

Peter Warfield provided comments regarding the minutes.

Commissioner Casher made a motion to approve the August 2013 Commission Meeting minutes.

James Chaffee made comments regarding the minutes.

Commissioner Wasserman provided comments on the minutes.

Chair Ravel addressed comments regarding the minutes stating that the full record of all FPPC Commission meetings are available online and that the public has ample ability to see what transpires in the FPPC Commission meetings.

Ayes: Commissioners Wynne, Casher, Eskovitz, Wasserman, and Chair Ravel.

The motion passed 5 to 0.

Chair Ravel removed Agenda Item 22 from the Consent Calendar.

Commissioner Eskovitz removed Agenda Items 10 and 16 from the Consent Calendar and recused himself from consideration of both items.

Chair Ravel addressed the members of the public and asked if anyone was present that would like to comment on a particular item on the Consent Calendar. A member of the public requested Agenda Item 3 be removed from the Consent Calendar. Agenda Item 3 was removed from the Proposed Consent Calendar.

Commissioner Wynne made a motion approve Agenda Items 4-9, 11-15, and 17-21. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Eskovitz, Wasserman, and Chair Ravel.

The motion passed 5 to 0.

Conflict of Interest

- 4. In the Matter of Chris Canning, FPPC No. 12/696. Total Proposed Penalty: \$3,000.**
- 5. In the Matter of James Kopshever, FPPC No. 12/085 (Default Decision). Total Proposed Penalty: \$3,000.**

Campaign Reporting

- 6. In the Matter of Friends of Rosalinda Avitia For Tulare Local Healthcare District Area 2 Director, Rosalinda Avitia, and Robert Montion, FPPC No. 12/965. Total Proposed Penalty: \$3,500.**
- 7. In the Matter of Hector De La Torre, DeLaTorre for Insurance Commissioner 2010, and Jane Leiderman, FPPC No. 12/211. Total Proposed Penalty: \$2,500.**
- 8. In the Matter of Breans Against Measures T & U, Rehan Chaudry, and Brett Murdock, FPPC No. 12/758. Total Proposed Penalty: \$2,000.**
- 9. In the Matter of Yes on 37 for Your Right to Know if Your Food Has Been Genetically Engineered. Supported by Consumer Advocates, Makers of Organic Products and California Farmers, FPPC No. 12/984. Total Proposed Penalty: \$1,500.**

Commissioner Eskovitz removed Agenda Item 10 from the Proposed Consent Calendar.

- 11. In the Matter of Family Farmers Working for a Better California, with Major Support by Western Growers Association, and Ward Kennedy, FPPC No. 13/660. Total Proposed Penalty: \$400.**

Lobbying Reporting

- 12. In the Matter of Broad & Gusman, LLP, FPPC No. 13/497. Total Proposed Penalty: \$2,500.**
- 13. In the Matter of Property ID Corporation and Morgan McComb, FPPC No. 13/489. Total Proposed Penalty: \$600.**
- 14. In the Matter of Performance Marketing Association, FPPC No. 13/493. Total Proposed Penalty: \$200.**

Mass Mailing

- 15. In the Matter of Alan Frank, Alan Frank for City Council 2012, and Jeff Buchanan, FPPC No. 12/890. Total Proposed Penalty: \$2,500.**

Major Donor

Commissioner Eskovitz removed Agenda Item 16 from the Proposed Consent Calendar.

- 17. In the Matter of Signal Hill Petroleum, FPPC No. 13/898. Total Proposed Penalty: \$400.**

Statement of Economic Interests – Non-Filer

- 18. In the Matter of Jocelyn Woodard, FPPC No. 12/527 (Default Decision). Total Proposed Penalty: \$4,000.**
- 19. In the Matter of Martin Andreas, FPPC No. 13/ 627. Total Proposed Penalty: \$200.**
- 20. In the Matter of Holly Johnson Harris, FPPC No. 13/834. Total Proposed Penalty: \$200.**

Statement of Economic Interests – Non-Reporting

- 21. In the Matter of Linda Richardson, FPPC No. 13/067. Total Proposed Penalty: \$600.**
- 22. In the Matter of Luis Herrera, FPPC No. 13/255. Total Proposed Penalty: \$600.**

Lobbying Firm Registration and Reporting

- 3. In the Matter of California Strategies LLC, Jason Kinney, Rusty Areias, and Winston Hickox, FPPC No. 11/850. Total Proposed Penalty: \$40,500 (Respondent California Strategies LLC - \$10,500; Respondent Jason Kinney - \$12,000; Respondent Rusty Areias - \$6,000; and**

Respondent Winston Hickox - \$12,000).

Daniel Pulya, from Consumer Watchdog, commended the Commission for bringing the issue of shadow lobbyists to light. Mr. Pulya requested that the Commission postpone the approval of this item for further review.

Gary Winuk responded to Mr. Pulya's comments, letting him know that the issue he raised has already been investigated.

Commissioner Wasserman, Commissioner Wynne and Chair Ravel requested further clarification from Mr. Winuk, which he provided.

Chair Ravel thanked the Enforcement Division for their work in this matter and stated that it is the first time the Enforcement Division had dealt with the issue of shadow lobbying.

Commissioner Wynne made a motion to approve Agenda Item 3. The motion was seconded by Commissioner Wasserman.

Ayes: Commissioners Wynne, Casher, Wasserman, and Chair Ravel.

Abstain: Commissioner Eskovitz

The motion passed 4 to 0.

Campaign Reporting

10. In the Matter of A Committee in Support of Proposition 34, Sponsored by ACLU of Northern California, and Abdi Soltani, FPPC No. 13/537. Total Proposed Penalty: \$800.

Commissioner Wynne made a motion to approve Agenda Item 10. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Wasserman, and Chair Ravel.

Recused: Commissioner Eskovitz

The motion passed 4 to 0.

Major Donor

16. In the Matter of Skechers USA, Inc., FPPC No. 13/885. Total Proposed Penalty: \$2,400.

Commissioner Wasserman stated that he will abstain due to school fundraising activity he is involved in that, at times, involves Sketchers USA, Inc.

Commissioner Wynne made a motion to approve Agenda Item 16. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, and Chair Ravel.

Recused: Commissioner Wasserman and Eskovitz.

The motion passed 3 to 0.

22. In the Matter of Luis Herrera, FPPC No. 13/255. Total Proposed Penalty: \$600.

James Chafee addressed the Commission regarding this matter.

Peter Warfield addressed the Commission regarding this matter.

Gary Winuk responded to Mr. Chafee and Mr. Warfield's comments.

Commissioner Casher requested additional clarification from Gary Winuk, which he provided.

Commissioner Wynne made a motion to approve the staff recommendation for Agenda Item 22. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Wasserman, Eskovitz and Chair Ravel.

The motion passed 5 to 0.

GENERAL ITEMS 23 – 29

23. Regulation 18239: Definition of Lobbyist.

Heather Rowan discussed Agenda Item 23.

Commissioners Wasserman and Eskovitz requested clarification from Heather Rowan, which she provided.

James Chafee addressed the Commission regarding this matter.

Lacey Keys, Associate at Olson Hagel & Fishburn LLP, requested clarification on this matter. Heather Rowan provided clarification.

Commissioner Wasserman requested clarification regarding the burden of the requirement. Heather Rowan provided clarification.

Commissioner Eskovitz made a motion to approve the staff recommendation for Agenda Item 23. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Wasserman, Eskovitz and Chair Ravel.

The motion passed 5 to 0.

24. Regulation 18421.5: Reporting an Expenditure for Paid Online Communications.

Heather Rowan addressed the Commission regarding Agenda Item 24 and provided a response to comment letter received from Steven Mavigilio.

Commissioner Wasserman requested clarification on this matter, which he received.

Commissioner Wynne thanked staff for their work on this matter and discussed the need for this regulation.

Commissioner Eskovitz thanked staff for their efforts and requested clarification on subsection (c). Heather Rowan and Lynda Cassady provided clarification to Commissioner Eskovitz's comments.

Commissioner Wasserman made comments regarding this regulation.

Peter Warfield addressed the Commission with concerns regarding this matter.

Commissioner Eskovitz requested clarification regarding "favorable or unfavorable" content. Zack Morrazzini responded to his questions.

Steven Maviglio provided comments regarding this regulation.

Heather Rowan addressed issues raised by Steve Mavigilio.

Chair Ravel and Zack Morrazzini responded to Mr. Mavigilio's comments.

Peter Warfield addressed the Commission again regarding the regulation.

Commissioner Wasserman offered suggestions to the regulation.

Commissioner Eskovitz requested clarification.

Betty Ann Downing, President of California Political Law, asked a clarifying question regarding the regulation.

Heather Rowan addressed comments and questions received.

Daniel Pulya, from Consumer Watchdog, provided a clarifying point in regards to the regulation. Mr. Pulya expressed support for this regulation.

Commissioner Wynne made a motion to approve the staff recommendation for Agenda Item 26. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Wasserman, Eskovitz and Chair Ravel.

The motion passed 5 to 0.

25. Adoption of Amendment to Regulation 18521.5: Distribution of Leftover Funds by Ballot Measure Committees Controlled by Candidates for Elective State Office.

Zack Morazzini addressed the Commission regarding Agenda Item 25.

Thomas Willis, from Remcho, Johansen & Purcell, LLP, discussed why the California Democratic Party has requested amendments to this regulation.

Commissioner Casher requests clarification about enforcement in this matter.

Zack Morazzini and Thomas Willis provided clarification to Commissioner Casher.

Commissioner Casher made a motion to approve the staff recommendation for Agenda Item 2. The motion was seconded by Commissioner Wynne.

Ayes: Commissioners Wynne, Casher, Eskovitz and Chair Ravel.

Nos: Commissioner Wasserman

The motion passed 4 to 1.

26. Adoption of the Campaign Manual for Major Donor Committees.

Commissioner Wasserman made a motion to approve the staff recommendation for Agenda Item 26. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Wasserman, Eskovitz and Chair Ravel.

The motion passed 5 to 0.

27. Appointment of Vice-Chair.

Chair Ravel discussed the need for an appointment of a Vice-Chair and recommended Commissioner Eskovitz.

Chair Ravel made a motion to appoint Commissioner Eskovitz as Vice-Chair. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Wasserman, Eskovitz and Chair Ravel.

The motion passed 5 to 0.

ENFORCEMENT MATTERS

28. Request for Authority to File a Civil Complaint and Enter a Stipulated Judgment: In the Matter of Citizens for a Voice in Government, Major Funding by Investment Manager, Brandon Powers, Lysa Ray, and Chris Hansen, FPPC No. 13/869. Total Proposed Penalty: \$50,000.

Chair Ravel stated that Agenda Item 28 can be presented to the Commission and then the Commission will decide if they would like to move to closed session.

Gary Winuk presented Agenda Item 28 to the Commission.

The Commissioners agreed to proceed with discussion in open session.

Commissioner Casher asked a procedural question and Gary Winuk provided information.

Ravel discussed that this is the purpose of the work of the FPPC and the extraordinary speed that the Commission took in enforcing this matter is consistent with the purpose of the Commission.

Gary Winuk thanked Enforcement staff for their work.

Commissioner Wasserman stated the work on this case was exemplary.

Commissioner Eskovitz made a motion to approve the staff recommendation for Agenda Item 28. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Wasserman, Eskovitz and Chair Ravel.

The motion passed 5 to 0.

EXECUTIVE STAFF REPORTS ITEM 30

Commissioner Wynne requested an update on the legislative report. Erin Peth updated the Commission.

The Report was approved by consensus.

Ayes: Commissioners Wynne, Casher, Wasserman, Eskovitz and Chair Ravel.

The motion passed 5 to 0.

CLOSED SESSION ITEM 31

Pending Litigation (Gov. Code § 11126(e)(1)). Deliberation upon:

- Administrative Hearing: In the Matter of Charles R. “Chuck” Reed, San José Fiscal Reforms, Mayor Reed, Chamber PAC And Issues Mobilization PAC Proponents, and

Benjamin J. Roth (FPPC Case No. 12/761).

Gary Winuk provided background information regarding this matter.

Jesse Minardi, from the Sutton Law Firm, provided input on the matter.

Gary Winuk provided additional background information on the case and discussed some of the issues that Jesse Minardi raised in the briefs.

Mr. Minardi made remarks on behalf of Respondents.

Chair Ravel and Commissioner Eskovitz requested additional information on this matter and Mr. Minardi responded.

Gary Winuk addressed points made by Mr. Minardi.

The Commission retired to further discussion in closed session.

The Commission returned from closed session.

Chair Ravel announced that the Commission voted to find that Respondents violated section 85501. The Commission declined to find Section 85501 unenforceable. The Commission found that due to mitigating factors that this matter warrants a fine in the amount of one dollar. The commission will submit a formal written decision within 100 days and will be executed and served on all parties.

Commissioner Eskovitz made a motion to adjourn. The motion was seconded by Commissioner Casher.

Ayes: Commissioners Wynne, Casher, Wasserman, Eskovitz and Chair Ravel.

The motion passed 5 to 0.

The meeting adjourned at 2:25 p.m.

Respectfully submitted,

Dated:

Kelli Breton
Commission Assistant

Approved November 14, 2013

Sean Eskovitz, Vice Chair
Fair Political Practices Commission