2017 Annual Report

Fair Political Practices Commission

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Commissioner Brian Hatch, Commissioner Maria Audero, Chair Jodi Remke, Commissioner Allison Hayward, Commissioner Frank Cardenas

Chair's Message and Priorities for 2018

2017 was a year of transition for the agency: appointment of three new Commissioners, retirement of several longtime employees, and relocation of our office.

The office move was a significant undertaking. But ultimately, not only did we sort out and reorganize 32 years of clutter, we created a more productive work environment that fosters better communication and collaboration within the agency.

And while the move took more time and effort than any of us anticipated, we also achieved many other impressive goals in 2017. As highlighted in this report, these accomplishments include:

- **Increasing transparency through technology** by deploying Form 700 e-filing for the 2017 filing season; developing new online disclosure for behested payments; creating a new Conflict of Interest Codes internal database; and posting new "shorts" on our website dedicated to specific Form 700 schedules to improve user experience.

- **Streamlining and simplifying regulations and procedures to increase efficiency and improve accountability** by updating the protocol for 1090 advice to provide the most useful and timely assistance; and implementing legislation that overhauled advertisement disclosure requirements (AB 249, DISCLOSE Act), including creating multiple user-friendly factsheets, updating manuals, and drafting regulations for consistency and clarification.

- **Focusing on strict enforcement of serious violations** resulting in a record year of enforcement, including 340 cases with proven violations approved by the Commission totaling over $1.1 million in fines.

In 2018, our focus will be on assisting candidates, committees and filing officers during the election, while proactively enforcing the Political Reform Act. In addition to these core functions, we will continue to improve transparency in governmental ethics by launching the enforcement database public portal, adding more data visualizations on our website, using smart forms to gather valuable data, and creating additional internal databases for efficiency and accountability.

I want to thank the dedicated staff at the FPPC for such a productive and successful year.

Jodi Remke

The FPPC moved to a new location in downtown Sacramento in the summer of 2017. The FPPC's new offices are at 1102 Q Street, Sacramento, CA 95811.

2017 Year in Review

The Commission provided advice to over **17,000** inquiries submitted via phone and e-mail, and presented **35** workshops throughout the state. The Commission also produced **15** live and recorded webinars addressing the Form 700, Filing Officer Responsibilities and Candidate/Treasurer basics.

The Commission successfully resolved **1,477** cases, which included **340** settlements approved by the Commission totaling over **$1.1 million** in fines. This was a record-setting number of settlements approved by the Commission.

The Commission approved **133** state agency and multi-county agency conflict of interest codes.

The Commission implemented the **10** bills signed by the Governor that changed the Political Reform Act, including extensive changes to advertising disclaimer requirements for all committees so that voters can make more informed voting decisions by seeing the interests who are supporting or opposing specific candidates and ballot measures.

Significant Developments

Continued Strict Enforcement of Serious Violations

Huntley Hotel; Richardson Patel and Pure Pilates (aggregate penalty $320,000) August 2017

The Huntley Hotel is a luxury hotel located in Santa Monica that opposed the expansion and development of the neighboring Fairmont Miramar Hotel. The hotel's assistant general manager, attorneys, and a local political consultant executed a campaign laundering scheme that involved 62 contributions totaling $97,350 to support various "slow growth" candidates and general purpose committees over two election cycles. The scheme involved convincing other businesses to make campaign contributions with the understanding that The Huntley would reimburse the businesses through payments for services never rendered. The scheme also involved The Huntley's employees and friends making contributions to candidates with the promise of being reimbursed. The hotel violated California prohibition against making contributions in the name of another.

Legal Opinion and Revision of Regulations for Recall Committees

In June of 2017, the Senate Democratic Caucus requested a determination of whether the restrictions on contributions between state candidates contained in Section 85305 limited the amount one state candidate could contribute to a committee to oppose a recall election controlled by another state candidate. The Commission decided to issue an opinion finding that Sections 85305 and 85315 require that there be no limit on these contributions. The Commission adopted the opinion at its August 17, 2017 hearing.

The DISCLOSE Act (AB 249)

The Governor signed into law a comprehensive revision of California's campaign finance disclosure laws. AB 249 (Mullin), the California DISCLOSE Act, changes the advertising disclosure requirements for ballot measures and independent expenditures. Campaigns are now required to display or announce new types of disclaimers on television, radio, telephone, mail, and e-mail communications. The intent of these new laws is to provide voters with more information about a campaign's top contributors. Additionally, the AB 249 changes the reporting requirements for earmarked contributions.

FPPC on the Move

After 32 years on the corner of 5th and J Streets, the FPPC moved to a new location in downtown Sacramento in the summer of 2017. The FPPC's new offices are at 1102 Q Street. A number of factors necessitated the FPPC moving from The Travelers Hotel Building. An anticipated rise in rent and renovations to the building, in conjunction with the ongoing development around the Golden 1 Center and Downtown Commons, resulted in the FPPC leaving offices it called home since 1985.

While staff was spread over three floors in the old offices, the new offices feature everyone on the same floor. This provides improved agency workflow and cohesiveness. An added benefit is the FPPC is now closer to entities central to our mission and work, including being three blocks from the State Capitol Building and two blocks from the Secretary of State's Office. That is convenient because the FPPC and the Secretary of State work in conjunction with one another in administering the Political Reform Act. Additionally, FPPC officials are often called to the Capitol, the heart of the State's legislative and political world. Being closer provides easier access for agency staff and others who have business at the FPPC.

Educating the Regulated Community

Workshops and Presentations

Political Reform Consultants presented 35 workshops for state and local agencies, candidates and treasurers. They also developed a proactive approach to educating the FPPC's constituents by conducting outreach visits and phone calls to city and county clerks and school boards to offer training and guidance on filing officer responsibilities, gift policies, the Form 700 and campaign reports. The increased effort to be proactive about educational opportunities has resulted in strengthened partnerships between the regulated community and the FPPC.

Form 700 Tutorials

Political Reform Consultants created a comprehensive Form 700 online tutorial that provides information for each schedule of the form. From the Cover Page to Schedule E, filers can view detailed examples of what is required to be disclosed and can watch at anytime from anywhere.

Candidate Toolkit Update

The Candidate Toolkit was given a refresh, and updated information was added to make it easier for candidates to obtain all they need to know about running for state and local office.

League of California Cities Conference & Expo and California State Association of Counties Annual Meeting Participation

In 2017, the FPPC had a presence at the League of California Cities Conference & Expo and the California State Association of Counties Annual Meeting, both of which took place in Sacramento.

At the League of Cities Conference & Expo in September, Executive Director Erin Peth was a panelist at the session titled, "The Public Official and FPPC: Silent Partners in Transparency." The discussion surrounded a new initiative between California cities and the FPPC which aims to "achieve greater transparency and enhance the capacity to respond to increasing demands for ethical behavior in public service." Approximately 50 city clerks and elected officials attended the discussion.

At the League Expo, FPPC staff provided informal advice on campaign finance reform and the Form 700, and walked interested participants through a brief tutorial on the Form 700 Electronic Filing System. Several attendees stated that they were grateful for the FPPC's participation in the event.

At the California State Association of Counties Annual Meeting, FPPC staff provided general information on the work of the Commission and provided informal advice on the Form 700.

Partnerships with Local Agencies

FPPC staff assisted in organizing an Ethics Agency Retreat in Oakland, CA where representatives from San Diego, Los Angeles, Oakland, San Francisco, Sacramento, Berkeley and Orange County discussed best practices and emerging issues in campaign finance reform in California. Participants focused their discussion around current policies, and agreed to build on their collective efforts to promote the integrity of state and local government in California.

Council on Governmental Ethics Law Conference

In December, Chair Jodi Remke and Senior Counsel Sukhi Brar attended and participated in panels at the annual Council on Governmental Ethics Law (COGEL) Conference in Toronto, ON Canada. COGEL is the preeminent organization of government ethics administrators whose members work in the fields of governmental ethics, freedom of information, elections, lobbying, and campaign finance. Chair Remke spoke on a panel providing an overview of Federal PAC activity in California's elections, and Sukhi served as member of COGEL's Program Committee, which is responsible for planning the 45 + conference sessions, and moderated a panel on campaign advertising disclosures.

Outreach Statistics

7,270 Phone Calls

1-866-Ask-FPPC is open Monday-Thursday, 9 am-11:30 am. The FPPC also offers extended hours of operation in the days leading up to filing deadlines.

9,735 E-Mails

Members of the public may submit e-mails to advice@fppc.ca.gov 24/7. Staff quickly responds to basic questions regarding compliance with the Act.

50 Presentations

FPPC staff conducted 35 in person workshops and hosted 15 webinars which covered a variety of topics.

114 Tweets

The FPPC highlights upcoming events, updates, filing deadlines and other important dates to help ensure the public stays connected to the Commission.

209 Advice Letters

Commission attorneys researched and authored 209 advice letters in 2017; 85 of these letters related to Government Code Section 1090.

Commission Overview and New Commissioners

The Fair Political Practices Commission is a five-member bipartisan commission which meets monthly to make decisions on a wide spectrum of matters including enforcement cases, adopting and rescinding regulations, and taking positions on legislation related to the Act.

Commissioners are appointed by various constitutional officers and serve staggered four-year terms. The Governor is responsible for appointing the Chair of the Commission and one other Commissioner from a different political party. The other Commissioners are appointed by California's Attorney General, Secretary of State, and State Controller. The Commission's Chair is the only full-time Commissioner and is responsible for setting the overall policy direction for the FPPC. Together with the Chair, the Executive Director provides day-to-day leadership to the Commission's staff, who are organized into four divisions: Legal, Administration and Technology, Enforcement, and External Affairs and Education.

Commissioner Frank Cardenas

Commissioner Cardenas joins the California Fair Political Practices Commission with more than 25 years of practicing law and government service. He is currently an adjunct instructor at California State University, Los Angeles. Mr. Cardenas served as Executive Director of the Los Angeles City Council Redistricting Commission and as Chief of Staff and Executive Officer at the Los Angeles County Metropolitan Transportation Authority. He has also been a consultant on matters such as business planning, organizational assessment, and government relations. In his years in private legal practice, his work focused on the areas of business, administrative and public law.

Mr. Cardenas received his Juris Doctor from Harvard Law School and his undergraduate degree from the University of Southern California. Cardenas, a Democrat, was appointed to the Commission by Attorney General Xavier Becerra in December 2017. His term ends January 31, 2021.

Commissioner Brian Hatch

Commissioner Hatch represented the California Professional Firefighters (CPF) for nearly 40 years. He began his career as a firefighter with the Ontario Fire Department in San Bernardino County, and would later become a fire captain. He was a union leader, two years as treasurer and 8 years as president of Ontario Firefighters Local 1430. He later became the lead advocate for CPF where he had a hand in nearly every significant advance affecting firefighters' lives and livelihoods including the creation of Cal-JAC apprenticeship program, workers' compensation protection for firefighters with job-related cancer, fallen firefighter survivor benefits and secure retirement for all first responders.

Commissioner Hatch also played a key role in the founding and ongoing management of several finance companies, as well as the development of a statewide Internet service provider. He has shared his expertise through lectures with government, trade groups and public and private universities including UC Berkeley, UC Davis, and Pepperdine University. He has also provided technical consulting services on municipal bankruptcy, governmental reorganization and tax policy.

A Democrat, Commissioner Hatch was appointed to the Fair Political Practices Commission by Secretary of State Alex Padilla. His term ends January 31, 2021.

Commissioner Allison Hayward

Commissioner Hayward currently serves on the board of the Office of Congressional Ethics of the U.S. House of Representatives. Previously, she was vice president of policy at the Center for Competitive Politics, an assistant professor at George Mason University School of Law, and chief counsel to Commissioner Bradley A. Smith of the Federal Election Commission. Hayward has practiced election law in California and Washington, D.C., and she is a member of the U.S. Supreme Court Bar, as well as the American Law Institute. After law school, she clerked for the Honorable Danny J. Boggs of the U.S. Court of Appeals for the Sixth Circuit.

Hayward, a Republican, earned her bachelor of arts in political science and economics from Stanford University and her juris doctorate from the University of California, Davis, School of Law. Hayward's term ends January 31, 2021.

Appendix A
2017 Major Enforcement Cases

Laundered Campaign Contributions/True Source

Huntley Hotel; Richardson Patel and Pure Pilates (aggregate penalty $320,000)
August 2017

The Huntley Hotel is a luxury hotel located in Santa Monica that opposed the expansion and development of the neighboring Fairmont Miramar Hotel. The hotel's assistant general manager, attorneys, and a local political consultant executed a campaign laundering scheme that involved 62 contributions totaling $97,350 to support various "slow growth" candidates and general purpose committees over two election cycles. The scheme involved convincing other businesses to make campaign contributions with the understanding that The Huntley would reimburse the businesses through payments for services never rendered. The scheme also involved The Huntley's employees and friends making contributions to candidates with the promise of being reimbursed. The hotel violated California prohibition against making contributions in the name of another.

California Republican Leadership Fund (penalty $30,000)
February 2017

For the 2012 and 2014 statewide elections, six Republican central committees made contributions to state legislative candidates in their names without disclosing that the Fund was the true source of those contributions since it solicited the contributions, maintained control of the money, and made all decisions regarding contributions. As a result, the Fund negligently caused the central committee to make contributions without identifying the Fund as the true source of the contributions.

Michael Preston (penalty $20,000)
May 2017

Preston is a businessman in Milpitas. He wanted to have a piece of property he owned to be re-zoned from industrial to residential. Wishing to act upon advice from a consultant about pro-growth, pro-development candidates, Preston asked several of his employees to make maximum contributions to two sitting Milpitas city council members. The contributions went to pay off campaign debt for one councilmember and to support a state assembly race of another. Preston reimbursed some of the employees with cash payments from his personal bank account. Preston was not identified as the actual source of the contributions on campaign disclosures violating California's anti-laundering laws.

Personal Use of Campaign Funds

Mark Peterson (penalty $45,000)
January 2017

Mark Peterson was the elected district attorney for Contra Costa County and served as his own campaign treasurer. Beginning in January of 2011 and continuing until October of 2015, Peterson routinely used Committee funds for personal expenditures. This included using the Committee debit card for personal items such as meals at restaurants, gasoline, clothing, movie tickets, hotel rooms, cellular telephone bills, etc. Peterson also made a number of cash withdraws from the Committee bank account and used the cash for personal purposes, and transferred funds from the Committee account to his personal bank account. In total, Peterson made personal use of $66,372.03 in campaign funds. He reimbursed the Committee for all of the personal expenditures. Approximately, 600 expenditures were made by Peterson for personal use.

In June 2017 and subsequent to the FPPC's adopted penalty, the California Attorney General charged Peterson with 12 felony counts of perjury and one count of felony grand theft for lying on campaign disclosure forms. Peterson resigned from office and pled guilty to one count of perjury. Peterson was sentenced to three years informal probation and to serve 250 hours of community service. In August 2017, the California state bar suspended Peterson's license to practice law in the state.

In the Matter of John Lindner and Franklin-McKinley for Our Kids - Yes on Measure J 2010 (penalty $18,500)
October 2017

John Lindner was a successful incumbent candidate for Franklin-McKinley School District Member in the November 8, 2016 General Election. Franklin-McKinley for our Kids—Yes on Measure J 2010 was a ballot measure committee primarily formed to support Measure J, a successful school bond measure, in the November 2, 2010 General Election. Lindner was the Committee's treasurer. The Committee was terminated on or about December 31, 2015. The Committee and Lindner failed to disclose and itemize expenditures of $100 or more on campaign statements. In addition, Lindner used campaign funds which conferred a substantial personal benefit to him for purposes not directly related to a political, legislative or governmental purpose.

Lobbying

In the Matter of eBay, Inc. (penalty $6,500)
January 2017

eBay, Inc., a lobbyist employer, failed to timely file three lobbyist employer reports and failed to timely disclose campaign contributions.

In the Matter of Transform and Stanley Lam (penalty $2,129)
May 2017

Transform qualified and filed as a Person Who Spend $5,000 or More to Influence Legislative or Administrative Action ($5,000 filer) since 2010. Stanley Lam is Transform's responsible officer. Transform and Lam failed to timely file seven $5,000 reports (Form 645) for the reporting periods of January 1, 2014 through December 31, 2016 by their respective due dates.

In the Matter of Mercury Public Affairs (penalty $4,000)
June 2017

Mercury Public Affairs, a lobbying firm, made a gift to then-State Senator Ronald Calderon that exceeded the applicable gift limit and failed to fully disclose the gift on its lobbying firm report for the second quarter of the 2013 through 2014 legislative session.

Gifts

In the Matter of Ronald Davis (penalty $4,000)
October 2017

Ronald Davis is the warden at San Quentin State Prison. As warden, Davis is required to annually report his interests in real property, investments, business positions, and sources of income including gifts, on an Annual Statement of Economic Interests. Davis failed to timely disclose gifts amounting to $1,550 in value that he received on his 2015 Annual Statement of Economic Interests and accepted gifts in excess of the annual gift limit by $2,840 in 2015.

In the Matter of Timothy Simon (penalty $5,500)
June 2017

Timothy Simon was a member of the California Public Utilities Commission from 2007 to 2012. On Simon's Leaving Office Statement of Economic Interests, he was required to disclose gifts and travel-related payments that he received during the 2012 calendar year from approximately 40 sources (totaling roughly $21,000), but he failed to do so. Additionally, in June 2012, Simon accepted an over-the-limit gift worth approximately $1,600.

Behested Payments

In the Matter of Tony Rackauckas (penalty $21,000)
September 2017

Tony Rackauckas, the District Attorney for Orange County, failed to timely report 14 payments of $5,000 or more made at his behest to the Orange County Gang Reduction and Intervention Partnership, a non-profit organization.

Appendix B
2017 Legislation

Local Ballot Measure Qualification Expenditures (AB 187 (Gloria) - Chapter 183, Statutes of 2017)

This bill requires a committee to file an activity-based report each time it makes contributions or independent expenditures of $5,000 or more to support or oppose the qualification of a single local initiative or referendum. The committee must file this report in the same local jurisdiction as the local initiative or referendum as if the committee was primarily formed to support or oppose the measure. The report must be filed within 10 business days of reaching $5,000 in aggregate.

Comprehensive Changes to Campaign Advertising Disclaimers (AB 249 (Mullin) - Chapter 546, Statutes of 2017)

This bill makes comprehensive amendments and adds new requirements to advertising disclaimers for all advertising formats. Generally, ballot measure committees and independent expenditure committees will have to list their top donors in accordance with formatting and other criteria listed in the bill. Additionally, AB 249 changes the reporting requirements for earmarked contributions.

Removing Paper Original and Copy of Campaign Statement (AB 895 (Quirk) - Chapter 111, Statutes of 2017)

This bill is not operative until the Secretary of State certifies an online filing and disclosure system. This bill removes the requirement to file a paper original and copy in addition to online filing for candidates and controlled committees for state office, statewide ballot measures, and state general purpose committees.

Slate Mailer Disclaimers Public Safety Organizations (SB 226 (Hertzberg) - Chapter 855, Statutes of 2017)

If a slate mailer organization or other sender of a mass mailing identifies itself as representing public safety personnel, as defined, then the slate mailer or mass mailing must disclose additional information in a format and under other specifications, as described in the law.

City of Sacramento Campaign Finance Ordinance (SB 267 (Pan) - Chapter 622, Statutes of 2017)

This bill authorizes the Fair Political Practices Commission to have primary responsibility for the impartial, effective administration, implementation, and enforcement of the local campaign ordinance of the City of Sacramento upon the adoption of an agreement between the City and the Commission. The Commission must provide a report to the Legislature about the agreement by January 1, 2022.

Independent Contractors for Local Government Agency (AB 551 (Levine) - Chapter 196, Statures of 2017)

Generally, the law prohibits a local elected official, chief administrative officer of a county, city manager, or other high ranking local official from leaving office and lobbying their former agency for compensation for one year after leaving office. There is a general exemption for former officials who lobby for another local government agency as an employee or representative. This bill would apply the one year lobbying prohibition to a former official who became an independent contractor for a local government agency.

Legislators Who Leave Prior to the End of the Term (AB 1620 (Dababneh) - Chapter 800, Statutes of 2017)

The bill prohibits a member of the Legislature, who resigned from office, from lobbying the Legislature beginning with the effective date of the resignation to one year after the Legislature adjourns sine die.

Behested Payments Definition Clarification (AB 867 (Cooley) - Chapter 749, Statutes of 2017)

This bill does not make any substantive public policy changes to requirements of behested payments. The intent of the bill is to make technical and clarifying changes only. The bill creates a stand-alone definition of "behested payments," "election-related activities," and "made at the behest of." Prior to this bill, these definitions were located within the definition of "contribution."

Mass Mailing at Public Expense 60-Day Prohibition (SB 45 (Mendoza) - Chapter 827, Statutes of 2017)

Under previous law, mass mailings at public expense were generally prohibited under certain circumstances under FPPC regulations. This bill codifies the Commission's Regulation 18901. The regulation had permitted certain types of mass mailings at public expense as long as those communications met certain requirements. This bill prohibits three types of mass mailings if they are sent 60 days preceding an election by or on behalf of a candidate on the ballot at that election.

Links to Local Government Campaign Finance Information (SB 358 (Stern) - Chapter 624, Statutes of 2017)

This bill requires the Secretary of State to create a website that contains hyperlinks to any local government agency website that contains publicly-disclosed campaign finance information.

Appendix C
2017 Regulations

18351 Conflict of Interest Code of the Fair Political Practices Commission, amended 12/21/2017

Every agency must adopt a Conflict of Interest Code which enumerates those officials within the agency who must file a Form 700 (Statement of Economic Interests) and the types of holdings each official must report. The FPPC's Conflict of Interest Code is contained in Regulation 18351, which was previously last amended in 2016. The adopted amendments to Regulation 18351 included: (1) adding new positions, (2) reflecting title changes to existing job classifications, (3) eliminating job classifications that no longer exist or which are no longer making or participating in governmental decisions, (4) revising disclosure categories for existing job classifications with expanded duties and (5) making other non-substantive revisions. The most significant changes were a result of the reorganization and renaming of the former Technical Assistance Division (TAD) to the External Affairs and Education Division.

18531.5 Recall Elections, amended 12/27/17

Section 85305 prohibits a candidate for elective state office or committee controlled by that candidate from making any contribution to any other candidate for elective state office in excess of the contribution limits set forth in subdivision (a) of Section 85301. Section 85315 allows an elected state officer to accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits set forth in this chapter."

At its July 27, 2017 hearing, the Commission deliberated over issues raised with respect to the interplay between Sections 85305 and 85315, and whether the prohibition in Section 85305 applied to state candidates that are the subject of a recall. The Commission decided to issue an opinion finding that Sections 85305 and 85315 require that there be no limit on contributions from state candidates to a recall committee controlled by another state candidate to oppose the recall of that state candidate.

The Commission adopted the new opinion (In re Rios Opinion, No. O-17-001) at its August 17, 2017 hearing. At its October meeting, consistent with this opinion, the Commission adopted amendments to Regulation 18535 to make clear that the contribution limits in Section 85305 does not apply to state candidates who are the subject of a recall.

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