Fair Political Practices Commission

To: Chairman Getman; Commissioners Downey, Knox, Scott and Swanson

From: Luisa Menchaca, General Counsel
Lawrence T. Woodlock, Senior Commission Counsel

Subject: Pending Litigation

Date: May 24, 2001

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1. *California ProLife Council Political Action Committee et al. v. Scully et al.*

The trial court issued its final judgment in this matter on March 1, 2001, adjudicating the complaint of the slate mail plaintiffs and permanently enjoining Sections 84305.5 and 84503. On March 12, the Commission filed a motion requesting that the trial court alter or amend its judgment in several particulars, which was effectively granted by order entered on May 8, 2001. The trial court expressly limited its injunction of Section 84305.5 to the amendments added by Proposition 208, and limited its injunction of Section 84503, enjoining only application of that statute to slate mail advertisements. At a closed session meeting on May 22, 2001, the Commission decided that it would not appeal the judgment, as amended.

2. *Daniel Griset et al. v. Fair Political Practices Commission.*

On May 24, 2001, the California Supreme Court handed down a unanimous decsion upholding the constitutionality of Section 84305, for the second time. The Court agreed with the State's position that once the first Supreme Court decision had become final, it terminated the litigation as to all causes of action in plaintiffs' complaint. Because plaintiffs thereafter did not commence a separate lawsuit, but instead improperly sought to revive the same litigation in Griset II, the Court of Appeal erred in holding that it had authority to entertain a second appeal in the same action.

3. *California ProLife Council PAC v. Karen Getman et al.*

On October 19, 2000, the court denied plaintiff’s motion for preliminary injunction and dismissed seven of the ten counts in the complaint. Plaintiffs dismissed the Sacramento County District Attorney, and the remaining defendants – the FPPC and the Attorney General – answered what was left of the complaint. The parties are now propounding their discovery requests.

4. *Institute of Governmental Advocates, et al. v. FPPC et al.*

On March 6, 2001 the Institute of Governmental Advocates filed and served a Petition for Writ of Mandate with the Third District Court of Appeal, asking the Court to stay enforcement of Section 85702 until a full hearing might be held on the constitutional challenge to that provision. Section 85702 was added to the Act by Proposition 34, and prohibits lobbyists from making contributions to candidates and officeholders the lobbyists are registered to lobby. The Court of Appeal denied the Petition, and the action has been refiled in federal district court, where it is now pending before Judge Frank Damrell.

5. *Henry F. Ramey v. FPPC*

On April 18, 2001 the FPPC was served with the above-entitled complaint, seeking a judicial declaration that the Commission acted beyond its power in adopting Regulations 18705.1 and 18704.2, which recently took effect as part of the Commission's Phase 2 overhaul of its conflict of interest regulations. Specifically, plaintiff challenges the amendment to Regulation 18704.2(a), which provides that real property in which a public official has an economic interest is "directly involved" in a governmental decision if any portion of that property lies within 500 feet of property which is the subject of the governmental decision. The complaint alleges that the revised regulations reduce the obligations of public officials below a threshold established by statute and governing case law. The Commission filed its response on May 18, 2001.