



FAIR POLITICAL PRACTICES COMMISSION

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(Unapproved and subject to change)

CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION

MINUTES OF MEETING, Public Session

Thursday, July 17, 2014

CALL TO ORDER

Chair Remke called the meeting to order at 10:15 am on July 17, 2014 at the Fair Political Practices Commission, 428 J Street, Sacramento, CA 95814. Chair Remke and Commissioners Casher, Wasserman and Wynne were present. Due to a flight delay Commissioner Eskovitz joined around 10:40 am.

WELCOME

1. Public Comment

Chair Remke opened the floor for public comment.

2. Approval of April 2014 Special Commission Meeting Minutes.

Commissioner Wynne made a motion to approve item 2, Commissioner Casher seconded the motion.

Ayes: Commissioners Casher, Wasserman, Wynne

Abstentions: Chair Remke

The motion passed 3 to 0.

3. Approval of June 2014 Commission Meeting Minutes.

Commissioner Wasserman requested this item be amended to note that the Chair abstained from voting, not recused herself from voting on item two of the June 19th agenda.

Chair Remke made a motion to approve amended item 3, Commissioner Casher seconded the motion.

Ayes: Commissioner Casher, Wasserman, Wynne, Chair Remke

The motion passed 4 to 0.

PROPOSED CONSENT CALENDAR ITEMS 4 – 19

Chair Remke opened the floor to the Commission to remove or discuss any item from the Proposed Consent Calendar.

Commissioner Wasserman wanted to remove and abstain on item 12, remove items 6 and 7 for consideration, and give brief comments on items 4, 5, and 8.

Chair Remke wanted to make a comment on item 8.

After comments on items 4, 5, and 8 (noted below) Commissioner Wynne made a motion to approve the Consent Calendar, items 4-5, 8-11, and 13-19. Chair Remke seconded the motion.

Ayes: Chair Remke, Commissioners Casher, Wasserman, Wynne

The motion passed 4 to 0.

ENFORCEMENT MATTERS

Money Laundering

4. In the Matter of Gary Singh, Gary Singh For City Council 2010, and Joann Lew; FPPC No. 13/204 (Default Decision). Staff: Commission Counsel Zachary W. Norton and Special Investigator Lee Myers. Respondent Gary Singh has been a member of the Union City Planning Commission since 2006, and was an unsuccessful candidate for Union City Council in the November 2, 2010 election. He is also the owner of Bay Star Auto Care, an automobile repair business, located in Union City. Gary Singh for City Council 2010 was the controlled committee of Gary Singh. Joann Lew was the treasurer for the Committee. Respondent Gary Singh made contributions to the Gary Singh for City Council 2010 committee, in names other than his own, in violation of Government Code Section 84301(2 counts), and accepted a \$600 campaign contribution from John Pappas, a party to a proceeding involving a decision on a use permit before the Union City Planning Commission, within three months following the date final decisions were rendered in the proceeding in violation of Government Code Section 84308, subdivision (b) (1 count). Additionally, Respondents Gary Singh, Gary Singh for City Council 2010, and Joann Lew accepted monetary contributions totaling approximately \$2,100 in the form of four cashier's checks or money orders for \$100 or more, which were not drawn from the bank accounts of the contributors or donors, in violation of Government Code Section 84300, subdivision (c) (1 count). **Total Proposed Penalty: \$15,000.**

Commissioner Wasserman wanted his fellow commissioners to note that due to discretionary ability in the settlement process, not all counts and violations that are fined via stipulation are fined exactly the same.

5. In the Matter of Gary A. Husk and Jamieson & Gutierrez, Inc.; FPPC No. 13/1140 (Default Decision). Staff: Commission Counsel Milad Dalju, Special Investigator Annaraine Diaz, and Law Clerk Michael Battaglia. Respondent Gary A. Husk, a registered lobbyist in the State of Arizona at all times relevant to this matter, and his firm, Respondent Jamieson & Gutierrez, Inc., (collectively "Respondents"), made a \$300 contribution to Jerry Sanders for Mayor through Edward Sanchez, also a registered lobbyist and, at the time, Respondents' employee, and failing to disclose to Jerry Sanders for Mayor that Respondents were the true source of the contribution, in violation of Government Code Sections 84301 and 84300, subdivision (c) (1 count). At

the time of the contribution, Respondent Gary A. Husk had already made the maximum contribution allowed by the City of San Diego's contribution limit. Also at the time of the contribution, businesses were banned by the City of San Diego from making any contributions to candidates for city office. **Total Proposed Penalty: \$5,000.**

Commissioner Wasserman wanted clarification on how this investigation was initiated. Chief of Enforcement, Gary Winuk clarified it was generated from the Arizona Attorney General.

Conflict of Interest

6. In the Matter of Robert Behee; FPPC No. 13/1125. Staff: Commission Counsel Adam Silver and Special Investigator Ann Flaherty. Respondent Robert Behee, while a member of the Tuolumne Utilities District Board of Directors, made governmental decisions in which he knew, or had reason to know, he had a financial interest, by voting to approve numerous claim summaries that included prior payments made to Behee Enterprises, a corporation in which Respondent held the position of Director, in violation of Government Code Section 87100 (4 counts). **Total Proposed Penalty: \$12,000.**

Commissioner Wasserman commented that he believed the fine was not high enough. Chief of Enforcement, Gary Winuk explained how the Enforcement Division came to its proposed penalty.

Chair Remke made a motion to approve item 6, Commissioner Casher seconded the motion.

Ayes: Chair Remke, Commissioners Casher and Wynne

Nay: Commissioner Wasserman

The motion passed 3 to 1.

7. In the Matter of Phillip Harvey; FPPC No. 12/159. Staff: Commission Counsel Zachary W. Norton and Special Investigator Lee Myers. In this matter, Respondent Phillip Harvey, member of the Sacramento Planning Commission and Vice President of Petrovich Development Company, attempted to use his official position to influence governmental decisions in which he had a material financial interest, by communicating with planning commission staff, concerning the preparation of an addendum to a Negative Declaration and the terms of a tree removal proposal, in connection with the Curtis Park Village project on behalf of his employer, in violation of Government Code Section 87100 (2 counts). **Total Proposed Penalty: \$6,000.**

Commissioner Wasserman questioned one count against the respondent, Chief of Enforcement, Gary Winuk explained the Enforcement Division's interpretation of the standard.

Rosanna Herber with the Sierra Curtis Park Neighborhood Association made a public comment.

Commissioner Wasserman asked a clarifying question, Chief of Enforcement, Gary Winuk answered the question.

Chair Remke made a motion to approve item 7, Commissioner Casher seconded the motion.

Ayes: Chair Remke, Commissioners Casher and Wynne

Nay: Commissioner Wasserman

Abstain: Commissioner Eskovitz

The motion passed 3 to 1.

Roll was taken around 10:42 to account for Commissioner Eskovitz's presence.

Robocall Disclosure

8. In the Matter of Kurt Vander Weide, Friends of Kurt Vander Weide, and Carl Fogliani; FPPC No. 08/814 (Default Decision). Staff: Senior Commission Counsel Neal Bucknell, Special Investigator Beatrice Moore, and Legal Analyst Tracey Frazier. This matter was part of a joint investigation with the Attorney General's office. In 2008, Respondent Kurt Vander Weide was an incumbent candidate for the Turlock City Council. Respondent Friends of Kurt Vander Weide was his candidate controlled committee. Respondent Carl Fogliani was his campaign consultant. In this matter, Respondents Kurt Vander Weide and Friends of Kurt Vander Weide—with the help of Respondent Carl Fogliani, who aided and abetted—paid for one-half of the cost of a series of four robocalls, but three of the four robocalls falsely purported to be paid for by someone else, and the remaining robocall did not identify who paid for it, in violation of Government Code Section 84310, subdivisions (a) and (b) (4 counts). Also, Respondents Kurt Vander Weide and Friends of Kurt Vander Weide: (i) failed to maintain required committee records in violation of Government Code Sections 84104 and 84310, subdivision (c) (1 count); (ii) falsely reported or failed to report payment for the above-described robocalls on a campaign statement for the period ending October 18, 2008 in violation of Government Code Section 84211, subdivisions (b), (i), and (k) (1 count); (iii) failed to report payments to subvendors on campaign statements for the periods ending September 30, October 18, and/or December 31, 2008, in violation of Government Code Sections 84211, subdivision (k), and 84303 (1 count); and (iv) failed to notify a major donor of the need to file campaign statements in violation of Government Code Section 84105 (1 count). **Total Proposed Penalty: \$32,500.**

Chair Remke commended the research in this case, and noted she would like to take stronger action in the future regarding robocall disclosures. Commissioner Wasserman also wanted to commend the work of staff.

Campaign Reporting

9. In the Matter of Amy Bublak, Amy Bublak for City Council, and Milton Richards; FPPC No. 08/814. Staff: Senior Commission Counsel Neal Bucknell, Special Investigator Beatrice Moore, and Legal Analyst Tracey Frazier. This matter was part of

a joint investigation with the Attorney General's office. In 2008, Respondent Amy Bublak was a non-incumbent candidate for the Turlock City Council. Respondent Amy Bublak for City Council was her candidate controlled committee, and Respondent Milton Richards was her husband and committee treasurer. In this matter, Respondents failed to report a payment in the amount of \$1,000 on a pre-election campaign statement for the period ending September 30, 2008, in violation of Government Code Section 84211, subdivisions (b), (i), and (k) (1 count). (The payment was to Fogliani Strategies, a campaign consulting business owned by Carl Fogliani.) Also, Respondents failed to report required information about four expenditures to subvenders (which totaled approximately \$23,518) on campaign statements for the periods ending September 30, October 18, and/or December 31, 2008, in violation of Government Code Sections 84211, subdivision (k), and 84303 (1 count). **Total Proposed Penalty \$4,000.**

10. In the Matter of Andrew Ammon and Committee to Elect Andrew Ammon to the San Gabriel School Board 2011; FPPC No. 13/549. Staff: Commission Counsel Adam Silver and Special Investigator Annaraine Diaz. Respondent Andrew Ammon ("Respondent Ammon") was a successful candidate in the November 8, 2011 San Gabriel School Board Election. Respondent Committee to Elect Andrew Ammon to the San Gabriel School Board 2011 ("Respondent Committee") was the controlled committee of Respondent Ammon's 2011 campaign. Respondent Ammon acted as the treasurer for Respondent Committee. In this matter, Respondent Committee made a cash expenditure of \$100 or more in connection with Respondent Ammon's 2011 campaign totaling \$1,000, in violation of Government Code Section 84300, subdivision (b) (1 count); and failed to maintain proper records to support the campaign statements filed in connection with Respondent Ammon's 2011 campaign, in violation of Government Code Section 84104 (1 count). Respondents have a prior enforcement history. **Total Proposed Penalty: \$4,000.**

11. In the Matter of the Operative Plasterers and Cement Masons International Association Local 200 PAC, and Tom Castleman; FPPC No. 14/280. Staff: Commission Counsel Zachary W. Norton. Respondent Operative Plasterers and Cement Masons International Association Local 200 PAC is a state general purpose committee sponsored by the Operative Plasterers and Cement Masons International Association Local 200 and Tom Castleman is the treasurer for the Committee. Respondents failed to timely file a semi-annual campaign statement for the reporting period January 1, 2013 through June 30, 2013 due on July 31, 2013, and a semi-annual campaign statement for the reporting period July 1, 2013 through December 31, 2013 due on January 31, 2014, in violation of Government Code Section 84200, subdivision (a), 84215, and 84605, subdivision (b) (2 counts). **Total Proposed Penalty: \$2,000.**

12. In the Matter of Albert Muratsuchi, Muratsuchi For Assembly 2012, Gary S. Kuwahara, and Jane Leiderman, FPPC No. 14/021. Staff: Senior Commission Counsel Angela Brereton, and Program Specialist, Soni Mangat. Respondent Albert Muratsuchi, a successful candidate for California State Assembly, 66th District, in the June 5, 2012 primary election, and the November 6, 2012 general election, his controlled committee, and the committee treasurers, failed to file four \$5,000 online reports due on or about October 27, 2011, July 17, 2012, August 8, 2012, and August

20, 2012, during the periods outside the election cycles for the applicable elections, in violation of Government Code Section 85309, subdivision (c) (4 counts). **Total Proposed Penalty: \$800.**

Commissioner Wynne made a motion to approve item 12, Commissioner Casher seconded the motion.

Ayes: Chair Remke, Commissioners Casher, Eskovitz, Wynne

Abstain: Commissioner Wasserman

The motion passed 4 to 0.

13. In the Matter of Lynwood Teachers Association PAC; FPPC No. 13/1168.

Staff: Associate Government Program Analyst Kelli Breton. Respondent, Lynwood Teachers Association PAC, failed to timely file two semi-annual campaign statements for the reporting periods January 1, 2013, through June 30, 2013, due on July 31, 2013, and July 1, 2013, through December 31, 2013, due on January 31, 2014, with the Los Angeles County Registrar-Recorder/County Clerk, in violation of Government Code Section 84200 (2 counts). **Total Proposed Penalty: \$800.**

14. In the Matter of Citizens to Protect Walnut and Dana L. Hopkins, Treasurer; FPPC No. 14/375. Staff: Political Reform Consultant Adrienne Korchmaros.

Respondents, Citizens to Protect Walnut and Treasurer Dana L. Hopkins, failed to timely file the pre-election campaign statement covering the period January 1, 2014, through March 22, 2014, due on March 27, 2014, with the City of Walnut, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$200.**

15. In the Matter of Rick Ledesma, Ledesma for OUSD School Board, and Rocio Lievanos-Ledesma; FPPC No. 13/187. Staff: Political Reform Consultant Teri Rindahl. Respondents, Rick Ledesma, Ledesma for OUSD School Board, and Rocio Lievanos-Ledesma, failed to timely file campaign statements covering the period October 17, 2010, through June 30, 2013, with the County of Orange Registrar of Voters, in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$200.**

16. In the Matter of John Lindner, Friends of John Lindner for Franklin-McKinley School Board 2012, and John Lindner, Treasurer; FPPC No. 14/309.

Staff: Political Reform Consultant Adrienne Korchmaros. Respondents, John Lindner, Friends of John Lindner for Franklin-McKinley School Board 2012, and John Lindner as Treasurer, failed to timely file a semi-annual campaign statement covering the period July 1, 2013 through December 31, 2013, due on January 31, 2014, with the Santa Clara County Registrar of Voters, in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$200.**

Statement of Economic Interests – Non-Filer

17. In the Matter of Jane Karathanasis; FPPC No. 13/963. Staff: Commission Counsel Milad Dalju, Political Reform Consultant Teri Rindahl, and Law Clerk Brendan Rochford. Respondent Jane Karathanasis, as a member of the Valley Charter Schools' Board of Directors, failed to timely file a 2012 Annual Statement of Economic Interests with the Los Angeles Unified School District, due on April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$400.**

18. In the Matter of Weining Wang; FPPC No. 14/459. Staff: Political Reform Consultant Adrienne Korchmaros. Respondent Weining Wang, as EDP System & Program Analyst for the Clerk, Recorder Assessor's Office for the County of Santa Barbara, failed to timely file the 2012 Annual Statement of Economic, due on April 1, 2013, as well as the 2013 Annual Statement of Economic due on April 1, 2014, with the County Clerk, Recorder and Assessor Elections Division County of Santa Barbara, in violation of Government Code Section 87300 (2 counts). **Total Proposed Penalty: \$400.**

19. In the Matter of Jack Arthur Corwin; FPPC No. 13/1273. Staff: Legal Analyst Tracey Frazier, Law Clerk Michael Battaglia. Respondent, Jack Arthur Corwin, as a Julian Community Planning Group Member, failed to timely file a 2012 Annual Statement of Economic Interests with the County of San Diego Registrar of Voters, due on April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

INFORMATIONAL ITEM 20 (No action required)

20. In the Matter of Wisdom Culture and Education Organization; FPPC No. 11/475. Staff: Senior Commission Counsel Bridgette Castillo and Chief of Investigation Sandra Buckner. On June 19, 2014, the Commission approved a Stipulation, Decision and Order in this case, which imposed a penalty in the amount of \$25,000 for five counts of laundering money into the campaign account of Steve Cho for Mayor, in connection with the November 4, 2008 Election. Thereafter, the Enforcement Division communicated with Steve Cho regarding his duty to return the laundered funds, totaling \$2,500, to the State of California pursuant to Government Code section 85701. On June 30, 2014, the Enforcement Division received full payment in this regard. As required by law, the disgorgement payment will be turned over to the General Fund of the State of California in connection with the complete resolution of this matter.

Chief of Enforcement, Gary Winuk briefed the commission on the matter.

EXECUTIVE STAFF REPORTS ITEM 21

Legislative Report. Staff: Senior Commission Counsel and Legislative Coordinator, Sukhi Brar

Litigation Report. Staff: General Counsel, Zackery P. Morazzini

Legal Division Report. Staff: General Counsel, Zackery P. Morazzini

Enforcement Division Report. Staff: Chief of Enforcement, Gary Winuk

Technical Assistance Division Report. Staff: Chief of Technical Assistance Division, Lynda Cassady

Staff submitted the reports and there were no questions from the Commissioners.

GENERAL ITEMS 22 - 24

22. Adoption of Amendments to Conflict of Interest Regulations 18700.3, 18703.1, and 18438.5. Staff: Commission Counsel William J. Lenkeit and General Counsel Zackery P. Morazzini. Staff proposes to amend conflict of interest Regulations 18700.3 and 18703.1 by eliminating the current language in the regulation that creates new separate economic interests in entities that are “parents subsidiaries, or otherwise related business entities” and provide a new definition under Regulation 18700.3 that carries out the requirements of Section 82034. The current definition of parent, subsidiary, or otherwise related business entities, which is also referenced in Regulation 18438.5, will be moved to a new subdivision (b) for the purposes of the application of that regulation.

Commission Counsel, William Lenkeit briefed the commissioners regarding the amended regulations. Commissioner Eskovitz asked a clarifying question about the definition of indirect contributions, Commission Counsel, William Lenkeit answered. Commissioner Wasserman asked a clarifying question about what was happening with the three named regulations. Commission Counsel, William Lenkeit answered.

Shawn Mason, the City Attorney for the City of San Mateo made a public comment.

Commissioner Wasserman made a motion to approve item 22, Chair Remke seconded the motion.

Ayes: Chair Remke, Commissioners Casher, Eskovitz, Wasserman and Wynne

The motion passed 5 to 0.

23. SB 27 Regulations - Multipurpose Organization and Top Contributor Disclosure. Staff: General Counsel Zackery P. Morazzini and Senior Commission Counsel Hyla P. Wagner. SB 27 amended the Act effective July 1, 2014, adding provisions on disclosure of multipurpose organizations’ political activity and on top contributor disclosure. To implement SB 27, staff proposes amendments to Regulations

18215 and 18427.1, repeal of Regulation 18412, and adoption of Regulations 18422 and 18422.5.

Chair Remke noted that there were minor amendments based on comment letters received Wednesday 7/16/14, and that the amended versions were available online and in the back on the room. Senior Commission Counsel Hyla Wagner briefed the Commission. Commissioner Wynne commended staff and the authors of the public comment letters. Commissioner Eskovitz asked clarifying questions about last in first out, Senior Commission Counsel, Hyla Wagner and General Counsel Zackery Morazzini answered the questions. Chair Remke mentions an exemption on donations of restricted money. Commissioner Wasserman asked questions regarding retroactive requests regarding donations, disclosure, notification and potential penalties. Senior Commission Counsel, Hyla Wagner and General Counsel Zackery Morazzini answered the questions.

Chris Reynolds, Chief of the Political Reform Division of the Secretary of State's office made a public comment.

Lacey Keys, Olson Hagel and Fishburn made a public comment.

Trent Lange, California Clean Money Campaign made a public comment.

Dorothy Naple, California Clean Money Campaign made a public comment.

Shaene McLoud made a public comment.

Trudy Schafer, League of Women Voters made a public comment.

Chair Remke made a motion to approve item 23, Commissioner Eskovitz seconded the motion.

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

The motion passed 5 to 0.

24. Pacific Merchant Shipping Association v. Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun Staff: Senior Commission Counsel and Legislative Coordinator, Sukhi Brar. Appeal by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun of Order by Commission that Port Agent position be included in the Board's conflict of interest code.

Dennis Eagan, Deputy Attorney General made the argument on behalf of the BOPC.

Mike Jacob made the argument for PMSA.

CLOSED SESSION ITEMS 25-26

Administrative Deliberation (Gov. Code §1126(c)(3)). Deliberation upon:

25. Pacific Merchant Shipping Association v. Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun; appeal of Commission decision on conflict of interest code amendment.

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

26. Charles R. “Chuck” Reed. et al. v. FPPC; Sacramento County Superior Court Case No. 34-2013-800001709.

Chair Remke made a motion to adjourn the meeting. Commissioner Wynne seconded the motion.

Ayes: Chair Remke, Commissioners Casher, Eskovitz, Wasserman, Wynne.

The motion passed 5 to 0.

The meeting adjourned at 1:35pm.

Respectfully Submitted,

Dated:

John Kim
Commission Assistant

Approved August 21, 2014

Joann Remke, Chair
Fair Political Practices Commission