



(Unapproved and subject to change)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Thursday, August 18, 2016

Under Government Code section 11123(a), all meetings of a state body are open and public, and all persons are permitted to attend any meeting of a state body, except as otherwise provided in that article. The section further states that the portion of the teleconferenced meeting that is required to be open to the public must be audible to the public at the location specified in the notice of the meeting. The Commission may take action on any item listed on this agenda.

CALL TO ORDER

Chair Remke called the meeting to order at 10:00 am on August 18, 2016, at the Fair Political Practices Commission, 428 J Street, Sacramento, CA 95814. Chair Remke and Commissioner Wynne were present. Commissioners Audero and Wasserman were present via teleconference.

Welcome

Jodi Remke, FPPC Chair

Overview of revision project, the first draft is posted on FPPC website and CAFWD website, have had two public meetings with a third next week in Oakland, CA.

Public Comment

1. Public Comment.

No public comment.

Approval of Commission Minutes

2. Approval of July 2016 Commission Hearing Minutes.

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

Ayes: Commissioners Audero, Wasserman, Wynne, and Chair Remke.
The motion passed 4 to 0.

Consent Calendar – Enforcement Items 3 – 14

Item 3 was pulled at the request of Chair Remke.

Item 4 was pulled at the request of Commissioner Wasserman.

Commissioner Wynne made a motion to approve items 5-14, Commissioner Wasserman seconded the motion.

Ayes: Commissioners Audero, Wasserman, Wynne, and Chair Remke.

The motion passed 4 to 0.

Personal Use of Campaign Contributions

- 3. In the Matter of Tina Baca Del Rio, Friends of Tina Baca Del Rio and Tina Baca Del Rio for City Council 2013; FPPC No. 12/832.** Staff: Senior Commission Counsel Bridgette Castillo, Special Investigator Jeffrey Kamigaki and Program Specialist Luz Bonetti. Tina Baca Del Rio was a successful candidate for the City of Commerce City Council in the March 5, 2013 Election, initially elected as a member of the Commerce City Council in 2005. Tina Baca Del Rio for Commerce City Council 2013 (“Committee”), formerly known as Friends of Tina Baca Del Rio, is the controlled committee of Baca Del Rio. Baca Del Rio was the treasurer of the Committee at all relevant times. Baca Del Rio and the Committee: (1) failed to timely file and properly disclose financial activity on three semiannual campaign statements, in violation of Government Code Sections 84200, subdivision (a), and 84211, subdivisions (a)-(j) (3 Counts); (2) failed to timely file and properly disclose financial activity on one pre-election campaign statement, in violation of Government Code Sections 84200.5, subdivision (c), 84200.8, subdivision (b) and 84211, subdivisions (a)-(j) (1 Count); (3) failed to file fourteen 24-Hour Contribution Reports, in violation of Government code Section 84203 (4 Counts); and (4) failed to pay 2013 and 2014 Annual Fees to the Secretary of State’s Office, in violation of Government Code Section 84101.5 (1 Count). Baca Del Rio, individually, used campaign funds which conferred a substantial personal benefit to her for purposes not directly related to a political, legislative or governmental purpose, in violation of Government Code Section 89512 (3 Counts). **Proposed Penalty Against Baca Del Rio individually: \$15,000. Proposed Penalty Against the Committee and Baca Del Rio: \$40,000. Total Proposed Penalty: \$55,000.**

Chief of Enforcement, Galena West, stated that Enforcement moved entered into the stipulation based on the tentative settlement stated at the last hearing, highlighting that Ms. Baca Del Rio took responsibility for her actions, made the payment in full that includes \$15,000 from her personal account, her filings are complete and up-to-date with the Secretary of State.

Commissioner Audero asked a question about the reduction in the total proposed penalty in the settlement from the July 2016 Default Decision and whether an admission of wrongdoing with combined counts better fulfills the Agency's purpose as opposed to a higher penalty count.

Chair Remke said that this case started with a default, no cooperation, no opposition, no response and is now a stipulated settlement with the most important factors being acknowledgement of wrongdoing and compliance with filing. Chair Remke said that this settlement of a \$55,000 penalty is on the high end.

Chief West said that with a campaign case, there will always be mistakes and more counts or violations than you would ever want to charge. Instead Enforcement considers if there is a pattern of violation, activity, and the level of sophistication.

Commissioner Wynne listed what she believes to be the directives of the Commission since her time as a commissioner: settle when appropriate and fair in order to gain compliance, in default cases impose the maximum fine, and some penalties are more serious than others so don't stipulate down on those.

Commissioner Wasserman asked a question regarding what acknowledgement of wrongdoing the Commission is hoping to achieve.

Public Comment:

Richard Hernandez, City of Commerce Resident, stated that Baca del Rio has had 11 years of public service and does not believe it is just for her fine to be minimized.

Charles Calderon, City of Commerce Resident, urged the Commission to move forward with the Default Decision.

Abel Rodriguez, City of Commerce Resident, urged the Commission to move forward with the Default Decision.

Gloria Nezahualcoyotl, City of Commerce Resident, stated that Ms. Baca Del Rio's only known income is less than \$25,000 a year so she doesn't think the \$15,000 could be from her personal account.

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

Ayes: Commissioner Wynne and Chair Remke.

Nays: Commissioners Audero and Wasserman.

The motion was neither approved nor rejected based on a 2-2 vote. Item 3 will be held until next month's meeting.

Laundered Campaign Contributions

- 4. In the Matter of Aaron Goodwin; FPPC No. 15/250.** Staff: Senior Commission Counsel Zachary W. Norton and Special Investigator Simon Russell. Aaron Goodwin, a resident of Oakland, made two contributions of \$700 to the campaign committee, “Friends of Desley Brooks.” Each contribution was made in the name of another rather than his own name, in violation of Government Code Section 84301 (1 count). **Total Proposed Penalty \$5,000.**

Commissioner Wasserman asked about the referral from the Oakland Ethics Commission.

Chief West said that this was a referral case from the Oakland Ethics Commission because their statute of limitations of two years had already passed.

Commissioner Wynne made a motion to approve item 4, Chair Remke seconded the motion.

Ayes: Commissioners Audero, Wynne, and Chair Remke
Nays: Commissioner Wasserman.

This motion passed 3 to 1.

Advertisements

- 5. In the Matter of Citizens for a Safer Butte County; FPPC Case No. 16/432.** Staff: Commission Counsel Michael Hamilton, and Assistant Special Investigator Roone Petersen. Citizens for a Safer Butte County, a general purpose committee, produced fifty campaign signs supporting Measures G and H in the 2016 Primary Election that did not adequately disclose the committee as the source of the advertisements, in violation of Government Code Section 84504, subdivision (c), and Code of Regulations, Title 2, Section 18450.4, subdivision (b)(3)(D) (1 count). **Total Proposed Penalty: \$2,000.**

Chair Remke stated that this case is an example of pre-election efforts by the Enforcement Division ahead of the June election.

Lobbying Reporting

- 6. In the Matter of Modified Motorcycle Association of California; FPPC No. 14/1086.** Staff: Assistant Chief of Enforcement Dave Bainbridge and Law Clerk Elizabeth Enea. Modified Motorcycle Association of California, a lobbyist employer, failed to timely file three lobbyist employer reports for the period of the 2013-2014 legislative session, in violation of Government Code Section 86117 (3 counts). **Total Proposed Penalty: \$600.**

Recordkeeping

- 7. In the Matter of Alicia Romero, and Romero for City Council 2013; FPPC No. 15/153.** Staff: Senior Commission Counsel Angela Brereton and Special Investigator Paul Rasey. Alicia Romero was a successful candidate for Bell City Council in the March 5, 2013 Election, and is a current Bell City Councilmember. Romero for City Council 2013 was her candidate controlled committee. At all relevant times, Romero was the treasurer of the committee. Romero and the committee failed to maintain supporting records for contributions received and expenditures made, in violation of Government Code Section 84104. (1 count). **Total Proposed Penalty: \$1,500.**

Campaign Reporting

- 8. In the Matter of Phat Bui, and Phat Bui for Garden Grove Council 2014; FPPC No. 16/453.** Staff: Political Reform Consultant Jeanette Turvill and Assistant Political Reform Consultant Chloe Hackert. Phat Bui was a successful candidate for Garden Grove City Council in the November 4, 2014 General Election. Phat Bui for Garden Gove Council 2014 was his candidate controlled committee. Bui and Phat Bui for Garden Grove Council 2014 failed to timely file one semiannual campaign statement for the reporting period of July 1, 2015 through December 31, 2015, in violation of Government Code Section 84200 (1 count); and failed to disclose occupation and employer information for nine individual contributors on the committee's semiannual campaign statement for the reporting period of January 1, 2014 through June 30, 2014, in violation of Government Code Section 84211, subdivision (f) (1 count). **Total Proposed Penalty: \$638.**
- 9. In the Matter of John P. Shoals and Shoals for Grover Beach Mayor 2014; FPPC No. 16/438.** Staff: Assistant Political Reform Consultant Chloe Hackert. John P. Shoals was a successful candidate for Grover Beach Mayor in the November 4, 2014 General Election. Shoals for Grover Beach Mayor 2014 was his candidate controlled committee. Shoals and Shoals for Grover Beach Mayor 2014 failed to file five 24-Hour Reports, in violation of Government Code Section 84203 (5 counts). **Total Proposed Penalty: \$1,101.**
- 10. In the Matter of Steve Ipsen for District Attorney 2012; FPPC No. 15/667.** Staff: Commission Counsel Toren Lewis. Steve Ipsen for District Attorney 2012, Steve Ipsen, and Catherine Barry failed to file two semiannual reports for the periods of January 1, 2015 through June 31, 2015, and July 1, 2015 through December 2015. The committee also failed to timely pay the 2013, 2014, and 2015 \$50 Annual Fees to the Secretary of State's Office, in violation of Government Code Sections 84200 and 84101.5 (5 counts). **Total Proposed Penalty: \$645.**

- 11. In the Matter of Carlsbad Firefighters Legislative Action Group; FPPC No. 16/059.** Staff: Assistant Chief of Enforcement David Bainbridge and Law Clerk Elizabeth Enea. Carlsbad Firefighters Legislative Action Group (CFLAG), a local general purpose committee, failed to timely file two semiannual campaign statements for the periods of October 1, 2014 through December 31, 2014, and January 1, 2015 through June 30, 2015, in violation of Government Code Section 84200 (2 counts). **Total Proposed Penalty: \$527.**
- 12. In the Matter of Mike Spence, Friends of Mike Spence for City Council 2013, and John Fugatt; FPPC No. 15/2087.** Staff: Commission Counsel Tanya Smith. Mike Spence was a successful candidate for the West Covina City Council in the November 5, 2013 General Election. Friends of Mike Spence for City Council 2013 is his controlled recipient committee. Fugatt is the treasurer of the committee. Spence, Fugatt, and the committee failed to timely file one semiannual statement for the period of January 1, 2015 through June 30, 2015, in violation of Government Code Section 84200, subdivision (a) (1 count). **Total Proposed Penalty: \$231.**

Statement of Economic Interests Non-Filers

- 13. In the Matter of Petia Atanassova; FPPC No. 16/033.** Staff: Commission Counsel Toren Lewis. Petia Atanassova, as a Physician with the Santa Clara Valley Health & Hospital Systems, failed to timely file a 2014 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$400.**
- 14. In the Matter of Ellen McEwen; FPPC No. 16/411.** Staff: Political Reform Consultant Teri Rindahl. Ellen McEwen, as a Parks and Recreation Commissioner with the City of Monterey, failed to timely file a 2015 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

General Items (15-16)

- 15. Adoption of procedures for requesting and approving an exemption from the Act's requirement to adopt a conflict of interest code. Repeal and Re-Adopt Regulation 18751.** Staff: General Counsel Hyla Wagner and Senior Commission Counsel Brian Lau. Continuing the effort to streamline the code approval process, which begin with the adoption of Regulation 18750 in April, proposed Regulation 18751 will: (1) clarify the standard for requesting and approving an exemption from the Act's requirement to adopt a conflict of interest code, (2) require documents to support an exemption request only when necessary, (3) streamline review timeframes, and (4) extend the period for requesting reconsideration.

Commissioner Wasserman asked how many entities seek such exemptions.

Senior Commission Counsel Brian Lau said about 3 or 4 request exemptions and the same number request extensions.

Commissioner Wynne made a motion to approve item 15, Commissioner Audero seconded the motion.

Ayes: Commissioners Audero, Wasserman, Wynne, and Chair Remke.
This motion passed 4 to 0.

16. Legislative Update for August 2016. Staff: Phillip Ung, Legislative and External Affairs Director. This report includes a summary of 22 bills and one constitutional amendment that would impact the Political Reform Act or Government Code 1090. The Legislature will conclude its 2016 Session with meetings of the respective Appropriations Committees and Floor votes.

AB 700: on Senate floor, amended 08/17/16

Chair Remke stated that the amended bill is going in the opposite direction than what the Commission was hoping for and that this version of the bill is worse than the version before. Earmarking is defined three different ways: 1) under the existing prohibition, which the bill narrows, 2) for advertisement disclosure which is different, but similar and very narrow, and 3) under the multi-purpose organization section which is different and broader.

Commissioner Wynne stated that if the window to amend has passed then the Commission should change its position from “oppose unless amended” to “oppose.”

Public Comment: Trent Lang, President of the California Clean Money Campaign, sponsor of the bill. Believes it only changes current law modestly, but will allow for more transparency in disclosure for advertisements and the definitions for earmarking for ballot measures and committees.

Commissioner Wynne made a motion to change the Commission’s motion from “oppose unless amended” to “oppose.” Commissioner Wasserman seconded the motion.

Ayes: Commissioners Audero, Wasserman, Wynne, and Chair Remke.
This motion passed 4 to 0.

Executive Staff Reports Item 17

17. Executive Staff Reports.

Enforcement Division. Galena West, Enforcement Chief
Legal Division. Hyla P. Wagner, General Counsel
External Affairs and Education. Tara Stock, Manager

The staff reports were submitted.

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

Ayes: Commissioners Audero, Wasserman, Wynne, and Chair Remke.
The motion passed 4 to 0.

The meeting adjourned at 12:13pm.

Respectfully Submitted,
Sheva Tabatabaiejad
Commission Assistant
Approved August 31, 2016

Joann Remke, Chair
Fair Political Practices Commission