



(Unapproved and subject to change)

**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION**

**MINUTES OF HEARING, Public Session**

**Thursday, February 18, 2016**

**CALL TO ORDER**

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

**WELCOME**

**1. Public Comment**

No public comment.

**2. Approval of January 2016 Commission Hearing Minutes.**

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

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

**CONSENT CALENDAR ITEMS 3 – 28**

**ENFORCEMENT MATTERS**

Commissioner Wasserman recused himself from item 18 from the calendar.

Commissioner Casher abstained from voting on item 24.

Commissioner Wynne asked a question about item 4 regarding the four consecutive years of not reporting resulting in only two counts. Chief of Enforcement Galena West said that they took the most recent three years with the most income and that it did not qualify for streamline.

Chair Remke asked about item 5, noting that it was the second time the respondent was before the Commission and is still in office. She wanted to know what the options were on collecting on that fine and if it was possible to collect from currently open campaign accounts.

Chief West said that the respondent is up for re-election this year and the Enforcement Division will look closely at her campaign. She also said the collection process has been revamped to aggressively pursue fines that go through default. One option is to attach to her campaign bank account and that is something they will look into.

Chair Remke asked whether Enforcement subpoenas records when a respondent is a non-filer and goes through default because without her filings no information is known.

Chief West said that Enforcement generally does and now that it is an election year, they will if she continues to be a non-filer.

Commissioner Wasserman had a question regarding formal or informal contact with central committee for the county regarding the individual in item 5.

Chief West said that Enforcement has not had contact with them. However, six letters were sent by the Enforcement Division, with no response.

Commissioner Casher had a follow-up question on item 5 regarding respondent being named individually and as a committee. He asked whether a property lien could occur if she doesn't pay.

Chief West said she is liable for the entire amount and that property liens along with the FTB tax intercept program are options.

Public Comment:

Dan Jacobson—Chair of Democratic Foundation of Orange County, referred to item 7 of the consent calendar, said that he has instituted some internal controls that should stop this sort of violation, and expressed his apologies for the violation.

Commissioner Wynne made a motion to approve items 3-28 of the consent calendar with the exception of items 18 and 24; Commissioner Casher seconded the motion.

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

### **Mass Mailer**

- 3. In the Matter of Tony Bushala; FPPC No. 14/055.** Staff: Commission Counsel Zachary W. Norton and Special Investigator Jeffrey Kamigaki. Prior to the 2012 election, Tony Bushala paid for and caused to be sent a mass mailer, on or about October 31, 2012,

opposing Jan Flory and supporting Jane Rands and Barry Levinson for Fullerton City Council in the November 6, 2012 election, which failed to display required sender identification, in violation of Government Code Section 84305, subdivision (a) (1 count). **Total Proposed Penalty: \$2,000.**

#### **Statement of Economic Interests – Non Reporter**

- 4. In the Matter of David Eastham; FPPC No. 14/873.** Staff: Commission Counsel Tanya Smith. David Eastham, as a Helicopter Maintenance Chief for the Los Angeles County Fire Department, failed to disclose income from Guardian Helicopters, Inc., and Rotary Wing Services, Inc., on his 2010 through 2014 Annual Statements of Economic Interests, in violation of Government Code Sections 87300 and 87302 (2 counts). **Total Proposed Penalty: \$2,500.**

#### **Campaign Non-Filer**

- 5. In the Matter of Wendy Albright and Wendy Albright 38<sup>th</sup> County Central Committee 2012; FPPC No. 13/1234 (Default Decision).** Staff: Commission Counsel Michael W. Hamilton. Wendy Albright was a successful candidate for the 38<sup>th</sup> County Republican Central Committee in Los Angeles County. Albright and Wendy Albright 38<sup>th</sup> County Central Committee 2012 failed to timely file two semiannual campaign statements for the January 1, 2013 through June 30, 2013, and the July 1, 2013 through December 31, 2013 reporting periods, in violation of Government Code Section 84200 (2 counts). **Total Proposed Penalty: \$10,000.**
- 6. In the Matter of Incorporate Olympic Valley PAC; FPPC No. 14/411.** Staff: Senior Commission Counsel Bridgette Castillo and Special Investigator Jeffrey Kamigaki. Incorporate Olympic Valley PAC (“Committee”), a primarily formed committee to support a LAFCO proposal, failed to timely file monthly campaign statements for the period of July 15, 2013 through July 15, 2014, in violation of Government Code section 84252 (1 count). **Total Proposed Penalty: \$2,500.**
- 7. In the Matter of Democratic Foundation of Orange County, Glen Hatton; FPPC File No. 15/2190.** Staff: Political Reform Consultant Jeanette Turvill. Democratic Foundation of Orange County, a general purpose committee, and its treasurer Glen Hatton, failed to timely file a semiannual campaign statement for the period of July 1, 2014 through December 31, 2014, a semiannual campaign statement for the period of January 1, 2015 through June 30, 2015, and a 24-hour report for three \$1,000 contributions it made in connection with the November 4, 2014 election, in violation of Government Code Sections 84200 and 84203 (3 counts). **Total Proposed Penalty: \$940.**

- 8. In the Matter of Progressive Democratic Club; FPPC No. 15/1310.** Staff: Senior Commission Counsel Bridgette Castillo and Special Investigator Garrett Micheels. Progressive Democratic Club failed to timely file three semiannual campaign statements for the January 1, 2014 through June 30, 2014, the July 1, 2014 through December 31, 2014, and the January 1, 2015 through June 30, 2015 reporting periods, in violation of Government Code Section 84200 (3 counts). **Total Proposed Penalty: \$664.32.**
- 9. In the Matter of Marc A. Gibbons for Superior Court Judge 2014; FPPC No. 14/1266.** Staff: Commission Counsel Tanya Smith. Marc Gibbons was an unsuccessful candidate for Superior Court Judge in Los Angeles County in the June 3, 2014 Primary Election. Marc A. Gibbons for Superior Court Judge was his candidate-controlled committee. Gibbons failed to timely file a preelection campaign statement for the reporting period of March 18, 2014 through May 17, 2014. He also failed to timely file a semiannual campaign statement for the reporting period of May 18, 2014 through June 30, 2014, in violation of Government Code Sections 84200 and 84200.5 (2 counts). **Total Proposed Penalty: \$578.**
- 10. In the Matter of Committee To Defeat Leff Brown For School Board 2014, Susan Hollingsworth, and Nicole Lahee; FPPC File No. 14/1283.** Staff: Assistant Chief of Enforcement Dave Bainbridge and Law Clerk Sean Creadick. Committee to Defeat Leff Brown for School Board 2014, a Sonoma County primarily formed candidate committee, principal officer Nicole Lahee, and its treasurer Susan Hollingsworth, failed to timely file a preelection campaign statement for the reporting period of January 1, 2014 through October 18, 2014, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$234.**
- 11. In the Matter of Donna Foster-Rebusch, Donna Foster-Rebusch MHUSD - 2014, and Kathleen Spencer; FPPC No. 15/1385.** Staff: Political Reform Consultant Adrienne Korchmaros. Morgan Hill Unified School District Board Member Donna Foster-Rebusch, her committee Donna Foster-Rebusch MHUSD - 2014, and Kathleen Spencer as Treasurer failed to timely file a semiannual campaign statement covering the period of January 1, 2015 through June 30, 2015 with the Santa Clara County Registrar of Voters in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$203.**

**12. In the Matter of Armin Reyes; FPPC No. 15/1574.** Staff: Political Reform Consultant Adrienne Korchmaros. ABC Unified School District Board Member Armin Reyes failed to timely file a campaign short form statement covering the period of January 1, 2015 through December 31, 2015 with the Los Angeles County Registrar-Recorder/County Clerk in violation of Government Code Section 84206 (1 count). **Total Proposed Penalty: \$200.**

**13. In the Matter of Eleanor Brown, Eleanor Brown for Sacramento County Board of Education – District 4, and Patricia Stilwell, Treasurer; FPPC No. 15/1484.** Staff: Political Reform Consultant Adrienne Korchmaros. Sacramento County Board of Education – District 4 Board Member Eleanor Brown, her committee Eleanor Brown for Sacramento County Board of Education – District 4 and Patricia Stilwell as Treasurer failed to timely file a semiannual campaign statement covering the period of January 1, 2015 through June 30, 2015 with the Sacramento County Registrar of Voters in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$200.**

#### **Statement of Economic Interests – Non-Filer**

**14. In the Matter of Jim Dodson; FPPC No. 14/1051.** Staff: Assistant Chief of Enforcement Dave Bainbridge and Law Clerk Ryan Mahoney. Jim Dodson, a former member of the Desert and Mountain Conservation Authority in Los Angeles County, failed to timely file a 2011, 2012, and 2013 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (3 counts). **Total Proposed Penalty: \$600.**

**15. In the Matter of David Mendez; FPPC No. 15/1341.** Staff: Political Reform Consultant Teri Rindahl. David Mendez, as a Planning Commissioner with the City of King, failed to timely file a 2014 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (1 count). **Total Proposed Penalty: \$300.**

**16. In the Matter of Wyatt Allen; FPPC No. 15/2200.** Staff: Political Reform Consultant Teri Rindahl. Wyatt Allen, as a Member with the Lakeside Community Planning Group, failed to timely file a 2014 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

**17. In the Matter of Russell Correia; FPPC No. 15/2229.** Staff: Political Reform Consultant Teri Rindahl. Russell Correia, as an Alternate Member with the Juvenile Justice Coordinating Council, failed to timely file a 2014 Annual Statement of Economic

Interests with the County of Santa Clara Clerk of the Board, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

### **Annual Fee**

**18. In the Matter of American Federation of State, County, and Municipal Employees, AFL-CIO, Council 36; FPPC No. 15/393.** Staff: Senior Commission Counsel Bridgette Castillo. American Federation of State, County, and Municipal Employees, AFL-CIO, Council 36, a state general purpose committee, failed to pay the 2013 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$400.**

Commissioner Casher made a motion to approve item 18; Commissioner Wynne seconded the motion.

Ayes: Commissioners Casher, Wynne, and Chair Remke.  
The motion passed 3 to 0.

**19. In the Matter of League of Placer County Taxpayers; FPPC No. 15/796.** Staff: Commission Counsel Michael W. Hamilton. The League of Placer County Taxpayers, a county general purpose committee, failed to pay the 2013 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$400.**

**20. In the Matter of the Committee to Elect Steve Hofbauer Palmdale City Council 2011 and Steven D. Hofbauer, Treasurer; FPPC No. 15/2121.** Staff: Commission Counsel Michael W. Hamilton. Steve Hofbauer, member of the Palmdale City Council, and the Committee to Elect Steve Hofbauer Palmdale City Council 2011 failed to pay the 2014 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$400.**

**21. In the Matter of A Committee Against Measure G Kern Citizens for Patient Rights and Elizabeth Clarke, Treasurer; FPPC No. 15/2150.** Staff: Commission Counsel Michael W. Hamilton. A Committee Against Measure G Kern Citizens for Patient Rights, a Kern County primarily formed measure committee, and Elizabeth Clarke failed to pay the 2014 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$400.**

**22. In the Matter of Vernon Kurpieski for City Council 2014; FPPC No. 15/780.** Staff: Commission Counsel Michael W. Hamilton. Vernon Kurpieski, candidate for the Concord City Council, and Vernon Kurpieski for City Council 2014 failed to pay the 2013 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$200.**

**23. In the Matter of San Francisco Young Democrats; FPPC No. 15/1412.** Staff: Senior Commission Counsel Bridgette Castillo. San Francisco Young Democrats, a city general purpose committee, failed to pay the 2013 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$200.**

**24. In the Matter of Friends of Mia Ousley for City Council 2014 and April Jorden, Treasurer; FPPC No. 15/2112.** Staff: Commission Counsel Michael W. Hamilton. Mia Ousley, candidate for the San Leandro City Council, Friends of Mia Ousley for City Council 2014, and April Jorden failed to pay the 2014 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$200.**

Commissioner Wynne made a motion to approve item 24; Chair Remke seconded the motion.

Ayes: Commissioners Wasserman, Wynne, and Chair Remke.  
The motion passed 3 to 0.

**25. In the Matter of Karen Hemphill for School Board 2014 and Karen Hemphill, Treasurer; FPPC No. 15/2123.** Staff: Commission Counsel Michael W. Hamilton. Karen Hemphill, member of the Berkeley Board of Education, and Karen Hemphill for School Board 2014 failed to pay the 2014 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$200.**

**26. In the Matter of Esparza for School Board 2012 and Aimee Escobar, Treasurer; FPPC No. 15/2161.** Staff: Senior Commission Counsel Bridgette Castillo. Esparza for School Board 2012, Alexandria Esparza, a candidate for Franklin-McKinley School Board, and Aimee Escobar failed to pay the 2014 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$200.**

**27. In the Matter of Phil Tsunoda for City Council and Christina Zabat-Fran, Treasurer; FPPC No. 15/2260.** Staff: Commission Counsel Michael W. Hamilton. Phil Tsunoda, member of the Aliso Viejo City Council, Phil Tsunoda for City Council, and Christina Zabat-Fran failed to pay the 2014 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$200.**

**28. In the Matter of Kern Water, A Matter of Life, for Wulff Board of Directors 2014 Supported by Eric Averett and Eric L. Averett, Treasurer; FPPC No. 15/2183.** Staff: Senior Commission Counsel Bridgette Castillo. Kern Water, A Matter of Life, for Wulff Board of Directors 2014 Supported by Eric Averett, a local primarily formed committee, and Eric L. Averett failed to pay the 2014 \$50 annual fee to the Secretary of State's Office, in violation of Government Code Section 84101.5. **Total Proposed Penalty: \$200.**

### **Enforcement Informational Item 29**

#### **Laundering Campaign Contributions Joint Investigation (No Action Agenda Item)**

**29. In the Matter of Son Truong Nguyen; FPPC No. 14/376.** Staff: Chief of Enforcement Galena West and Special Investigators Lee Myers and Ann Flaherty. Mr. Nguyen illegally reimbursed campaign contributors for Janet Nguyen's 2012 Orange County Board of Supervisors election on 10 different occasions. He reimbursed a total of \$13,300. As part of a joint effort by the Orange County District Attorney's office and the FPPC Enforcement Division, Mr. Nguyen pled guilty to 10 misdemeanor counts of violating Government Code Section 84301 making contributions in the name of another. His sentence, which was imposed by the Orange County Superior Court, included: three years of informal probation, a donation of \$5,000 to Victim Witness Emergency Fund, performance of 40 hours of community service in lieu of jail, prohibition from being involved in any political campaigns during the duration of his probation, and a payment of \$20,000 to the General Fund of the State of California within three months of his plea date as a result of the FPPC's pro-active investigation.

Chief West said that this was a proactive investigation in a joint effort with Orange County. Over the last couple of years, they participated in interviews together and gathered information. The case resulted in a plea bargain, including a \$20,000 fine to be paid to the General Fund.

Chair Remke asked about the laundered contributions that also needed to be disgorged to the General Fund and if they had been.

Chief West said she sent a February 10, 2016 letter asking the candidate's committee to disgorge the funds by March 9. They should provide a copy of the check to the General Fund in the amount of \$13,300. If they don't disgorge the funds voluntarily then the Enforcement Division will file with superior court.

Commissioner Wasserman had a question about what counties are doing to get the word out for this kind of violation.

Chief West said she isn't familiar with what the Orange County District Attorney does specifically, but FPPC representatives recently participated on a panel with the District Attorney's office in Orange County discussing the law and violations. Also, there are a lot of local papers reporting on these violations.

### **General Items 30-32**

**30. Regulatory Clean-Up Packet for 2015 Legislation.** Staff: Hyla Wagner, General Counsel, John Wallace, Assistant General Counsel, and Cesar Cuevas, Legal Analyst. Staff recommends adoption of the regulatory changes to ensure that Commission regulations are consistent with recently enacted legislation. These are technical clean-up amendments to Regulations 18215.3, 18247.5, 18404, 18405, 18422, 18425, 18427.1, 18450.4, 18531.5, and 18531.62, and to repeal Regulation 18402.5.

Assistant Chief Counsel John Wallace said that the packet was a result of 2015 legislative changes. They only focused on non-substantive changes. Conforming changes don't need to go through notice or hearing, but they decided to provide notice in case somebody else caught things they did not catch. They found an additional change to regulation 18531.62, page 2, line 10, which was a minor conforming non-substantive change. At line 10, the reference to Government Code Section 90002 will be deleted, and instead reference Regulation 18996, which the Commission amended in December 2015.

Commissioner Wynne made a motion to approve item 30; Commissioner Wasserman seconded the motion.

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

**31. Political Reform Act Revision Project.** Staff: Executive Director Erin Peth. One year project to transform, renew and update the Political Reform Act. The overarching goal is to streamline and simplify the Act by minimizing legalese, reorganizing sections, incorporating key provisions from Regulations, and repealing statues that are inoperative. Commission staff is working in partnership with the California Constitution Center at the

University of California Berkeley School of Law, University of California Davis School of Law, and California Forward. An initial draft will be distributed for public comment, including to advocacy groups, local ethics commissions and the regulated community. Once approved by the Commission, the Act will be submitted to the Legislature for consideration in 2017.

Commissioner Wynne had two questions about the role of California Forward in the rewrite and whether the amended Act would have to be adopted by California voters.

Executive Director Erin Peth said that California Forward will be the project manager, especially through the advisory committee and public review process. The goal of the project is to make the Act more accessible without substantive change.

**Public Comment:**

Shawn M. Mason—City Attorney for the City of San Mateo, Chair of the League of California Cities City Attorney’s Department FPPC Committee, expressed his support of the goals of the project and offered any assistance they could provide.

Caitlin Maple—Research Analyst for California Forward, attended on behalf of CEO James Mayer and said that California Forward is grateful to be partnering with the FPPC on the project.

Chuck Bell—Senior Partner for Bell, McAnders & Hiltachk LLP, spoke on his own behalf on item 31, stating he is supportive of the ambitious and long over-due task of rewriting the Act and expressed that substantive reforms also need to take place with the Act in the future.

**32. Legislative Update for February 2016.** Staff: Phillip Ung, Legislative and External Affairs Director. The Legislature began the second year of the 2015-2016 Legislative Session on January 4, 2016. This report includes a summary of the four bills currently pending before the Legislature that would impact the Political Reform Act and Government Code Section 1090.

Chair Remke has on-going concerns regarding AB 1200, primarily that there has not yet been a clearly articulated existing problem the bill seeks to address. This bill only applies to contract lobbyists and not in-house lobbyists, and due to the restrictions of Cal-Access she believes any additional disclosure will be limited.

Legislative and External Affairs Director Phillip Ung said that the Commission's concerns have been relayed to the author's office, Department of General Services and the Governor's Office. The author's office is satisfied with the current version.

Commissioner Casher had a question as to whether the Commission will be asked to weigh-in on or sponsor any bills.

Legislative Director Ung said that AB 1200 is currently sitting on the Senate floor and is eligible to be taken up next Tuesday. Staff has not taken a position yet, but would be willing to do so if that's something the Commission would want. Staff will be making recommendations in the future.

### **Executive Staff Reports Item 33**

#### **33. Executive Staff Reports.**

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

Commissioner Wasserman had a question about on-going efforts to work with the Secretary of State's Office to get Cal-Access fixed.

Executive Director Peth said that she has been working with the Secretary of State's Office and that there are a lot of moving parts with a ballot measure potentially affecting the system. It is an active issue and they are definitely working on it and the Secretary's office.

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

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

The meeting adjourned at 11:07 am.

Respectfully Submitted,

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Sheva Tabatabaiejad  
Commission Assistant  
Approved March 4, 2016

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Joann Remke, Chair  
Fair Political Practices Commission