



**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION**  
**MINUTES OF HEARING, Public Session**  
**Thursday, August 17, 2017**

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 17, 2017, at the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811. Chair Remke and Commissioners Audero, Hatch and Hayward were present.

**Welcome**

Jodi Remke, FPPC Chair

Chair Remke acknowledged the passing of former Chair Ross Johnson who held the position of chair from 2007-2010.

**Public Comment**

- 1. Public Comment.** This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed; request clarification; or refer the item to staff.

**Approval of Commission Minutes**

- 2. Approval of July 2017 Commission Hearing Minutes.**

Commissioner Hatch: made a motion to substitute a transcription he personally prepared of Chair Remke's statement regarding her "no" vote as to the request for a Commission Opinion in July instead of the summary in the July 2017 hearing minutes subject to Chair Remke's approval; Commissioner Audero seconded the motion.

Ayes: Commissioners Audero, Hatch, Hayward, and Chair Remke.  
The motion passed 4 to 0.

**CONSENT CALENDAR ITEMS 3-27**

Item 3 was pulled from consent at the request of Commissioner Hatch for discussion.

Item 7 was pulled at the request of Commissioner Hatch and he stated he must recuse himself in an abundance of caution; Fallbrook Firefighters are an affiliate of the California Professional Firefighters who he served for nearly 40 years.

Commissioner Hayward made a motion to approve items 4-6 and 8-27; Commissioner Audero seconded the motion.

Ayes: Commissioners Audero, Hatch, Hayward, and Chair Remke.  
The Motion passed 4 to 0.

### **Consent Calendar 3 – 27**

#### **Laundered Campaign Contributions**

**3. In the Matter of The Huntley Hotel; FPPC No. 15/246.** Staff: Commission Counsel Michael W. Hamilton, Special Investigator Ann Flaherty, and Special Investigator Marshall Miller. The Huntley Hotel, a luxury hotel in Santa Monica, made contributions in the names of others instead of its own legal name to support candidates for Santa Monica City Council. In 2012, The Huntley Hotel made the following contributions in the names of others instead of its own legal name: nine contributions to Terry O’Day for City Council 2012, nine contributions to Glean Davis for City Council 2012, eleven contributions to Richard McKinnon for City Council 2012, eleven contributions to Ted Winterer for City Council 2012, and four contributions to Santa Monicans for Responsible Growth, totaling \$86,650; in violation of Government Code Section 84301 (44 counts). From 2013 through 2015, The Huntley Hotel made the following contributions in the names of others instead of its own legal name: one contribution to Santa Monicans for Renters Rights, one contribution to Santa Monica Coalition for a Livable City and sixteen contributions to McKinnon for City Council 2014, totaling \$10,700; in violation of Government Code Section 84301 (18 counts). **Total Proposed Penalty: \$310,000.**

Chief West made a minor correction to the stipulation to remove “(including a 21 story high rise tower)” to address a public comment.

Commissioner Hayward: raised the concern of the potential use of stipulations and summaries of facts by the public in a formal setting as truth rather than its expected use as a commission tool.

Chair Remke praised a good job and asked about this being the seconded highest fine in FPPC history.

Commissioner Hayward stated this is an appropriate fine based on what was uncovered. Commissioner Hatch asked how the FPPC first figured out there was a problem.

Chief West stated the investigators found a pattern based on spreadsheets created by the Enforcement Division using data from form submissions.

Commissioner Hatch asked if it is appropriate to refer cases like this to the Attorney General or a District Attorney because they have powers the FPPC does not.

Chief West stated certain violations can be criminally prosecuted and those cases are automatically referred to the District Attorney and the Attorney General and sometimes the FBI.

Ashlee Titus, representing Ocean Avenue, LLC, stated her concerns regarding the Commissioners understating their influence in the political process. Ms. Titus asked if the stipulation includes all the laundered contributions and if the Huntly Hotel has been required to file a major donor report.

Chief West stated the major donor report is not a requirement in all cases but that the respondents have volunteered to file the report.

Chair Remke asked whether Chief West believes the stipulation is an accurate reflection of the full investigation and all of the charges and would Chief West be able to prove so if this case went to trial.

Chief West responded yes.

Commissioner Audero wanted to clarify the public comment question from Ms. Titus regarding the violations listed in the stipulation and to clarify Chief West's statement that the violations listed are all there is evidence for.

Chief West stated her team found an appropriate line to stop investigating and resolve the case after a very through investigation.

Commissioner Hatch made a motion to approve item 3; Commissioner Hayward seconded the motion.

Ayes: Commissioners Audero, Hatch, Hayward, and Chair Remke.  
The motion passed 4 to 0.

- 4. In the Matter of Richardson Patel and Pure Pilates, Inc.; FPPC No. 17/00182.** Staff: Commission Counsel Michael W. Hamilton, Special Investigator Ann Flaherty, and Special Investigator Marshall Miller. Richardson Patel was a law firm located in Los Angeles, CA until it merged with another law firm in 2015. Pure Pilates, Inc. is a Pilates studio located in Encino, CA. In 2012, Richardson Patel acted as an agent for The Huntley Hotel by making a \$10,000 contribution to Santa Monicans for Responsible Growth in the name of Pure Pilates without disclosing the identity of the true donor, in violation of Government Code Section

84302 (1 count). Pure Pilates acted as an intermediary of The Huntley Hotel and failed to disclose the original contributor information for the \$10,000 contribution to Santa Monicans for Responsible Growth, in violation of Government Code Section 84302 (1 count). **Total Proposed Penalty: \$10,000.**

### **Contribution Limits**

- 5. In the Matter of Gray for Assembly 2014, Adam Gray, and Douglas L. White; FPPC No. 16/455.** Staff: Commission Counsel Christopher Burton and Program Specialist Bob Perna. This matter arose from an audit performed pursuant to the Franchise Tax Board's Political Reform Audit Program. Adam Gray is a current member of the State Assembly. Gray for Assembly 2014 was his candidate-controlled committee for the November 4, 2014 General Election. Douglas L. White was the Committee's treasurer. The Committee, Gray, and White failed to timely file one 24-Hour Report for two late independent expenditures, in violation of Government Code Section 84204 (1 count); failed to timely file 24-Hour Reports for four late contributions, in violation of Government Code Sections 84203 and 85309, subdivision (a) (1 count); failed to timely file one \$5,000 contribution report, in violation of Government Code Section 85309, subdivision (c) (1 count); and accepted campaign contributions that exceeded contribution limits, in violation of Government Code Section 85301, subdivision (a) and Regulation 18545, subdivision (a)(1) (1 count). **Total Proposed Penalty: \$8,500.**

### **Campaign Non-Filer**

- 6. In the Matter of Contra Costa Supervisor John Gioia 2010 Officeholder Account, Contra Costa Supervisor John Gioia 2014 Officeholder Account, John Gioia, and Jennifer Peck; FPPC Nos. 17/84 and 17/86.** Staff: Commission Counsel Christopher Burton and Program Specialist Grant Beauchamp. This matter arose from an audit performed pursuant to the Franchise Tax Board's Political Reform Audit Program. John Gioia is a current member of the Contra Costa County Board of Supervisors. Contra Costa Supervisor John Gioia 2010 Officeholder Account and Contra Costa Supervisor John Gioia 2014 Officeholder Account are his candidate-controlled committees. Jennifer Peck was previously the treasurer for both Committees. Gioia is the current treasurer for both Committees. The 2010 Committee, Gioia, and Peck failed to timely file seven semiannual campaign statements, in violation of Government Code Section 84200, subdivision (a) (3 counts). The 2014 Committee, Gioia, and Peck failed to timely file seven semiannual campaign statements, in violation of Government Code Section 84200, subdivision (a) (3 counts); failed to timely file two pre-election campaign statements, in violation of Government Code Sections 84200.5, subdivision (a), and 84200.8, subdivisions (a) and (b) (1 count); and failed to timely file a 24-Hour Report, in violation of Government Code Section 84203 (1 count). **Total Proposed Penalty: \$14,000.**

- 7. In the Matter of Fallbrook Firefighters Legislative Action Group and Eddie Jones; FPPC No. 17/00471 (Streamline Settlement).** Staff: Chief of Enforcement Galena West, Political Reform Consultant Teri Rindahl, and Staff Services Analyst Katie Trumbly. Fallbrook Firefighters Legislative Action Group is a county general purpose committee. Eddie Jones is the Committee's treasurer. The Committee and Jones failed to timely file eight semiannual campaign statements with the City of San Diego covering the reporting period of January 1, 2013 through December 31, 2016, in violation of Government Code Section 84200 (8 counts); and failed to timely file two pre-election campaign statements, in violation of Government Code Section 84200.5 (2 counts). **Total Proposed Penalty: \$2,273.**

Commissioner Audero made a motion for approval of item 7; Commissioner Hayward seconded the motion.

Ayes: Commissioners Audero, Hayward and Chair Remke  
The motion passed 3 to 0.

- 8. In the Matter of Political Committee of IBEW Local Union No. 617 and Kathleen C. Havener; FPPC No. 17/149 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Staff Services Analyst Hayley Porter. This matter arose from an audit performed pursuant to the Franchise Tax Board's Political Reform Audit Program. Political Committee of IBEW Local Union No. 617 is a state general purpose committee. Kathleen C. Havener is the Committee's treasurer. The Committee and Havener failed to timely file two 24-Hour Reports, in violation of Government Code Section 84203 (2 counts); and failed to file one supplemental pre-election campaign statement covering the reporting period of July 1, 2013 through October 19, 2013, in violation of Government Code Section 84202.5 (1 count). **Total Proposed Penalty: \$898.**

- 9. In the Matter of Neighbors United and Gino C. Bastianon; FPPC No. 16/19932 (Streamline Settlement).** Staff: Commission Counsel Christopher Burton and Special Investigator Paul Rasey. Neighbors United is a local general purpose committee. Gino C. Bastianon is the treasurer of the Committee. The Committee and Mr. Bastianon failed to timely file one semiannual campaign statement, in violation of Government Code Section 84200, subdivision (a) (1 count); and failed to timely file two pre-election campaign statements, in violation of Government Code Sections 84200.5, subdivision (a), and 84200.5, subdivisions (a) and (b) (2 counts). **Total Proposed Penalty: \$798.**

- 10. In the Matter of California American Council of Engineering Companies Political Action Committee (CA ACEC PAC), Brad Diede, and Paul J. Meyer; FPPC No. 17/00143 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Staff Services Analyst Hayley Porter. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. California American Council of Engineering

Companies Political Action Committee (CA ACEC PAC) is a state general purpose committee. Brad Diede is the Committee's treasurer. Paul J. Meyer was the Committee's treasurer at the time of the violations. The Committee, Diede and Meyer failed to timely file two 24-Hour Reports, in violation of Government Code Section 84203 (2 counts). **Total Proposed Penalty: \$691.**

**11. In the Matter of Pat Gacoscos for City Council 2014 and Pat Gacoscos; FPPC No. 17/00036 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Teri Rindahl. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. Pat Gacoscos was a successful candidate for Union City Council in the November 4, 2014 General Election. Bert Padua was the Committee's treasurer. Pat Gacoscos for City Council 2014 was her candidate-controlled committee. The Committee, Padua, and Gacoscos failed to file three 24-Hour Reports, in violation of Government Code Section 84203 (3 counts). **Total Proposed Penalty: \$658.**

**12. In the Matter of Palfini for Supervisor 2014 and Kenneth S. Palfini; FPPC No. 17/00034 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Teri Rindahl. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. Kenneth S. Palfini was an unsuccessful candidate for Siskiyou County Supervisor, District 3, in the June 3, 2014 Primary Election. Palfini for Supervisor 2014 was his candidate-controlled committee. The Committee and Palfini failed to timely file one pre-election campaign statement covering the reporting period of March 18, 2014 through June 17, 2014, in violation of Government Code Section 84200.5 (1 count); and failed to timely file two 24-Hour Reports, in violation of Government Code Section 84203 (2 counts). **Total Proposed Penalty: \$657.**

**13. In the Matter of Olivia Balderrama for City Council 2015, Olivia Balderrama, and Marlana Gutierrez; FPPC No. 15/2244 (Streamline Settlement).** Staff: Commission Counsel Christopher Burton and Program Specialist Luz Bonetti. Olivia Balderrama was an unsuccessful candidate for the Perris City Council in the November 3, 2015 General Election. Olivia Balderrama for City Council 2015 was her candidate-controlled committee. Marlana Gutierrez was the Committee's treasurer. The Committee, Balderrama, and Gutierrez failed to timely file three 24-Hour Reports, in violation of Government Code Section 84203 (3 counts). **Total Proposed Penalty: \$648.**

**14. In the Matter of Community for James Morales Jr. East Valley Water District 2013 and James Morales Jr.; FPPC 16/196 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Staff Services Analyst Dominika Wojenska. James Morales Jr. was a successful candidate for the East Valley Water District Board of Directors in the August 27, 2013 Special Election. Community for James Morales Jr. East Valley Water

District 2013 is his candidate-controlled committee. The Committee and Morales failed to timely file three semiannual campaign statements for the reporting periods of August 10, 2013 through December 31, 2014, in violation of Government Code Section 84200 (3 counts). **Total Proposed Penalty: \$626.**

**15. In the Matter of Friends of Magdalena Carrasco for East Side Union High School Board of Trustees 2012; FPPC No. 15/1271 (Streamline Settlement).** Staff Assistant Chief of Enforcement David Bainbridge and Staff Services Analyst Katie Trumbly. Magdalena Carrasco was a successful candidate for the East Side Union High School Board of Trustees in the November 6, 2012 General Election. Friends of Magdalena Carrasco for East Side Union High School Board of Trustees 2012 was her candidate-controlled committee. The Committee and Carrasco failed to file two semiannual campaign statements for the reporting periods of July 1, 2014 through December 31, 2014; and July 1, 2015 through December 31, 2015, in violation of Government Code Section 84200 (2 counts). **Total Proposed Penalty: \$565.**

**16. In the Matter of Melody O. Ngaue-Tuuholoaki, Committee to Elect Melody Ngaue-Tuuholoaki For School Board 2017, and Siniva T. Walker; FPPC No. 17/00303 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Enforcement Division Intake Manager Adrienne Korchmaros. Melody O. Ngaue-Tuuholoaki was a successful candidate for Seat 3 on the Inglewood Unified School District School board in the April 4, 2017 Special Election. Committee to Elect Melody Ngaue-Tuuholoaki For School Board 2017 is her candidate-controlled committee. Siniva T. Walker is the Committee's treasurer. The Committee, Ngaue-Tuuholoaki and Walker failed to timely file one pre-election campaign statement covering the reporting period of January 1, 2017 through February 18, 2017, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$404.**

**17. In the Matter of Dennis DeYoung for Assembly and Dennis DeYoung; FPPC No. 15/1404 (Streamline Settlement).** Staff: Commission Counsel Michael W. Hamilton and Program Specialist Bob Perna. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. Dennis DeYoung was an unsuccessful candidate for Assembly District 45 in the September 17, 2013 Special Election. DeYoung failed to file one pre-election statement for the reporting period of January 1, 2013 through August 3, 2013, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$283.**

**18. In the Matter of Committee to Re-Elect Joyce Dalessandro Trustee 2016, Joyce Dalessandro, and Cynthia B. Parti; FPPC No. 17/00248 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. Joyce

Dalessandro was a successful candidate for Trustee of San Dieguito Union High School District in the November 8, 2016 General Election. Committee to Re-Elect Joyce Dalessandro Trustee 2016 was her candidate-controlled committee. Cynthia B. Parti was the Committee's treasurer. The Committee, Dalessandro, and Parti failed to timely file one semiannual campaign statement for the reporting period of October 23, 2016 through December 31, 2016, in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$257.**

**19. In the Matter of Silicon Valley Latino Democratic Forum and Lee Ross Gomez, Jr.; FPPC No. 16/19714 (Streamline Settlement).** Staff: Commission Counsel Ruth Yang and Political Reform Consultant Tara Stock. The Silicon Valley Latino Democratic Forum is a local general purpose committee. Lee Ross Gomez, Jr. is the Committee's treasurer. The Committee and Gomez failed to timely file one semiannual campaign statement for the reporting period covering January 1, 2016 through June 30, 2016, in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$209.**

**20. In the Matter of South County Airport Promotion PAC and Rodney Pharis; FPPC No. 16/19616 (Streamline Settlement).** Staff: Commission Counsel Ruth Yang and Enforcement Intake Manager Adrienne Korchmaros. The South County Airport Promotion PAC is a local general purpose committee. Rodney Pharis is the Committee's treasurer. The Committee and Pharis failed to timely file one semiannual campaign statement for the reporting period of January 1, 2016 through June 30, 2016, in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$206.**

#### **Slate Mailer Organization**

**21. In the Matter of San Francisco League of Conservation Voters and Ian Wren, Treasurer; FPPC No. 15/1410 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Staff Services Analyst Dominika Wojenska. San Francisco League of Conservation Voters is a local general purpose committee. Ian Wren is the Committee's treasurer. The Committee and Wren failed to timely file three semiannual campaign statements covering the reporting periods of July 1, 2014 through December 31, 2014; and July 1, 2015 through June 30, 2016, in violation of Government Code Section 84200 (3 counts). The Committee also qualified as a slate mailer organization. The Committee and Wren failed to timely file two slate mailer organization reports, in violation of Government Code Section 84220 (2 counts). **Total Proposed Penalty: \$1,311.**

#### **Campaign Non-Reporter**

**22. In the Matter of Consumer Advocates for Safe Food and Water, Sponsored by Food & Water Watch and Jesse Mainardi; FPPC No. 16/037.** Staff: Senior Commission Counsel Bridgette Castillo and Program Specialist Grant Beauchamp. This matter arose from an audit

performed by the Franchise Tax Board's Political Reform Audit Program. Consumer Advocates for Safe Food and Water, Sponsored by Food & Water Watch was a state general purpose committee. Jesse Mainardi was the Committee's treasurer. The Committee and Mainardi failed to timely report subvendor information for payments made by the Committee, in violation of Government Code Sections 84211, subdivision (k) and 84303. **Total Proposed Penalty: \$2,000.**

**23. In the Matter of Long Beach Area Republican Party and Michele Morris; FPPC No. 15/810 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Staff Services Analyst Dominika Wojenska. Long Beach Area Republican Party is a local general purpose committee. Michele Morris is the Committee's treasurer. The Committee and Morris failed to timely report financial activity on one semiannual campaign statement for the reporting period of July 1, 2015 through December 31, 2015, in violation of Government Code Section 84211 (1 count). **Total Proposed Penalty: \$353.**

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

**24. In the Matter of William Larson; FPPC No. 17/458 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. William Larson, a board member of the Bixby Knolls Parking & Business Improvement Area Association, failed to timely file Annual Statements of Economic Interests for the years of 2015 and 2016 with the City of Long Beach, in violation of Government Code Section 87300 (2 counts). **Total Proposed Penalty: \$400.**

**25. In the Matter of Mark Little; FPPC No. 16/244 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. Mark Little, an Investment Money Manager Consultant for the Los Angeles City Employee's Retirement Systems, failed to timely file an Annual Statement of Economic Interests for the year of 2014, in violation of Government Code Section 87203 (1 count). **Total Proposed Penalty: \$200.**

**26. In the Matter of Craig Knight; FPPC No. 16/751 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Teri Rindahl. Craig Knight, a Planning Commissioner with the City of Firebaugh, failed to timely file an Annual Statement of Economic Interests for the year of 2015, in violation of Government Code Section 87203 (1 count). **Total Proposed Penalty: \$200.**

**27. In the Matter of Kevin Fat; FPPC No. 16/19734 (Streamline Settlement).** Staff: Commission Counsel Ruth Yang and Political Reform Consultant Teri Rindahl. Kevin Fat, a

member of the California Travel and Tourism Commission, failed to timely file an Annual Statement of Economic Interests for the year 2015 with the Secretary of State's Office, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

### **General Items 28-29**

**28. In re Rios Opinion Request.** Staff: General Counsel Jack Woodside and Commission Counsel Ryan O'Conner. After the Commission voted to grant Mr. Rios's request for an opinion at the July meeting, the Commission will now consider whether to adopt a draft opinion concluding that contribution limits do not apply when state candidates make contributions to a recall committee controlled by another state candidate

General Counsel Woodside stated the timeline and history leading up to issuing the draft opinion with analysis and conclusion.

Commissioner Audero thanked General Counsel Woodside for drafting the opinion and believes the opinion states what the Commissioners asked for. Commissioner Audero stated she has issues with section D with respect to support for Citizens to Save California; section D lacks the strength and support as the rest of the opinion and would like to revise this section. Commissioner Audero further asked why the other sections are stronger compared to section D.

General Counsel Woodside stated he was trying to be cautious without an attempt to weaken the argument while addressing the agency position.

Commissioner Audero listed her proposed changes to section D of the draft opinion, and suggested including in the memo activity that happened in May 2017 which was mentioned by Chair Remke throughout June 2017 meeting.

General Counsel Woodside stated the memo cannot be changed but also stated the memo is not up for adoption today.

Chair Remke clarified May events were mentioned based on timing and the emergency nature the issue seemed to have in June. Two points were being made by mentioning the timing. If the issue was discussed in June it would have been a violation of Bagley Keene Open Meeting Act and Mr. Rios had more than enough time to bring the issue to former General Counsel Hyla Wagner in mid-May. All communication between Ms. Wagner and Mr. Rios are part of the public record.

Commissioner Hatch clarified the last change Commissioner Audero offered to the draft opinion, and asked whether Ms. Wagner was the author of the Johnson advice letter.

General Counsel Woodside stated the author was Larry Woodlock.

Richard Rios, on behalf of the Senate Democratic Caucus, urged the commission to adopt the draft opinion. He believes the draft opinion accurately reflects the current state of the law.

Commissioner Audero asked Mr. Rios if he had read the comment letter that came from Mr. Hildreth and if the regulation is inconsistent with the draft opinion, whether the solution is to amend the regulation.

Brian Hildreth, Bell, McAndrews, and Hiltachk, representing the California Republican Party, stated the draft opinion does not help interpret the law. Mr. Hildreth suggest taking the steps to change the regulations rather than adopting the opinion. Mr. Hildreth stated approving the opinion will conflict with current law and adopting the opinion before addressing the regulation is the wrong way to fix the issue.

Commissioner Hatch asked how the argument Mr. Hildreth is making reconciles with the request for advice in 2008 by his law firm.

Brian Hildreth suggested reviewing the request for advice submitted to the FPPC in 2008, and stressed that his firm sought advice after it received two different conclusions from the FPPC.

Commissioner Audero asked whether the letter advocated a position in the request for advice. As for the existing regulation, Commissioner Audero questioned whether this could be fixed with an emergency order of repeal and commented that the 60 days this issue has been pending is long enough.

Commissioner Hatch stated he has a credibility concern with Mr. Hildreth because he is changing the argument 10 years later. Commissioner Hatch asked if the Commission were to pursue a regulation instead of adopting the opinion, would Mr. Hildreth then argue for sponsorship of legislation instead of rule making. Commissioner Hatch questioned whether the closing remark of Mr. Hildreth's comment letter, inviting Commissioners to contact him if they needed additional information, is appropriate based on his remarks to the media regarding Commissioner Hatch's communications.

Commissioner Hayward commended Mr. Hildreth for a spirited defense, and noted that attorneys change their legal arguments based on the interests of their clients.

Richard Rios addressed the notion that adoption of the draft opinion would allow contributions from lobbyists and disagreed with this interpretation.

Commissioner Audero commented on the FPPC being the best avenue to clarify regulations in the future if there is concern.

Chair Remke stated if an opinion is adopted today she will be issuing a dissent. Chair Remke clarified that everyone opposed to the recall, including state elected officials, can give unlimited funds to oppose the recall whether the opinion is adopted or not.

Commissioner Hayward stated the statute is clear and it does not match up with the Commission's previous advice letter.

Commissioner Audero stated, in anticipation of Chair Remke's dissent, she has issues with Chair Remke's statements during the July 2017 meeting and since she did not have an opportunity to address them in July, she responded now. Commissioner Audero stated the Commission is here to interpret the law when the question is raised.

Commissioner Hatch made a motion for adoption of item 28 with the inclusion of Commissioner Audero's suggested changes, and for General Counsel Woodside to draft an amendment to regulation 18535 to be brought to the October 2017 meeting; Commissioner Hayward seconded the motion.

Ayes: Commissioners Audero, Hatch, and Hayward.

Nays: Chair Remke.

The motion passed 3 to 1.

**29. Adoption of Amendment to Regulation 18351** Staff: Sukhi K. Brar, Senior Counsel, Legal Division. Staff proposes to amend Regulation 18351 to update the positions and disclosure categories in the FPPC's conflict of interest code.

Item 29 was removed from the Agenda at the request of Chair Remke.

### **Executive Staff Reports Item 30**

#### **30. Executive Staff Reports.**

Administration and Technology Division. Loressa Hon, Chief  
Enforcement Division. Galena West, Enforcement Chief  
Legal Division. Jack Woodside, General Counsel

External Affairs and Education. Courtney Miller, Manager  
Legislative and External Affairs. Phillip Ung, Director

As for the summary of the budget presented in the Administration and Technology report, Commissioner Audero asked Executive Director Peth whether the submitted budget is for approval or to be reviewed only.

Executive Director Peth stated the budget is for review based on the state budget process and timing, but welcomes the discussion to change the process in the future.

Commissioner Hatch asked whether the budget presented is the budget as adopted by the legislature.

Chair Remke asked what time would be best to bring forward a proposed budget.

Executive Director Peth stated the fall was the appropriate time for a proposed budget.

Commissioner Audero asked about the allocation of general expenses and what was included in consulting and professional services.

As for the summary of advice letters listed in the Legal Division report, Commissioner Hatch cautioned about lack of effort and type of advice given in advice letters- A-17-141, Diaz, A-17-155, McKee, A-17-116, Boes.

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

Ayes: Commissioners Audero, Hatch, Hayward, and Chair Remke.  
The motion passed 4 to 0.

The meeting adjourned at 11:51 am.

Respectfully Submitted,  
Sasha Linker  
Commission Assistant  
Approved September 11, 2017

Joann Remke, Chair  
Fair Political Practices Commission