



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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EXECUTIVE STAFF REPORTS

June 18, 2020 Commission Hearing

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I. ENFORCEMENT DIVISION

STAFF: GALENA WEST, CHIEF OF ENFORCEMENT

I. Overview

During the period of May 1, 2020 through May 31, 2020 the Enforcement Division received 40 complaints, opened 5 for investigation, and rejected 27. The Enforcement Division received 71 referrals during this time. The Enforcement Division closed a total of 242 cases including:

- 143 warning letters – campaign violations (23), conflict of interests violations (5), lobbying violations (3), and statement of economic interests violations (112);
- 49 no action closure letters alleging – advertisement violations (3), campaign violations (8), lobbying violations (5), and statement of economic interests violations (33);
- 2 advisory letters for campaign reporting and filing officer duties;
- 37 approved stipulations from the May Commission meeting;
- 9 committees were administratively terminated; and
- 2 cases used as placeholders for system testing.

The Division had 1,743 cases in various stages of resolution at the time of the May Monthly Report and currently has approximately 1,559 cases in various stages of resolution, including the 16 cases before the Commission as listed in the June Agenda.

II. Annual Statistics

On the next page, you will find a chart that details the annual statistics for enforcement complaints, referrals and cases. This chart includes the data from 2019, where Enforcement had a highly efficient and effective year, receiving almost 2,700 complaints and referrals and closing 1,031 cases with violations found. The information in the chart has been gathered from public reports, information from the defunct and inactive database, and data that has been converted into current form, so the numbers are close estimates in some instances.

	Year	2016	2017	2018	2019
1	Complaints Received	1,180	564	1,352	744
2	Referrals Received	350	1,616	1,529	1,950
3	Total Complaint and Referrals Received	1,530	2,180	2,881	2,694
4	Cases opened	1,315	1,480	1,561	1,820
5	Cases closed ³	1,803	1,477	1,243	1,465
6	Cases with resolutions approved by the Commission ¹	311	340	235	343
	a Streamline cases approved by Commission	234	262	173	263
	b Mainline cases approved by Commission	70	66	56	73
	c Default cases approved by Commission	7	12	6	7
7	Total fines imposed by the Commission	\$894,257	\$1,126,933	\$499,606	\$797,384
8	Warning letters issued	489	505	554	584
9	Administrative terminations	668	297	177	104
10	Cases closed with violations found ²	1,468	1,142	966	1,031
11	Advisory letters issued	14	17	20	9
12	No action closure letters	321	318	252	423

¹ Total for lines 6a, 6b, and 6c.

² Total for lines 6, 8, and 9.

³ Total cases closed includes Commission approved cases from the previous year and a Commission approved administrative judgement. It does not include Commission approved cases not yet closed.

III. Unexecuted Streamline Stipulations

Streamline penalty stipulations are approved by the Chief of Enforcement and reported to the Commission for discussion only before they are executed. The following streamline stipulations are presented for that purpose. After the close of the hearing, the Chief of Enforcement may execute all or any of the streamline penalty stipulations, at her discretion per Regulation 18360.2.

Campaign Late Filer

In the Matter of Democratic Headquarters of the West San Gabriel Valley, Jeff Schwartz, and Joan Jones Holtz; FPPC No. 20/1184. Staff: Galena West, Chief of Enforcement and Dominika Wojenska, Associate Governmental Program Analyst. Democratic Headquarters of the West San Gabriel Valley is a state general purpose committee. Jeff Schwartz is the Committee's treasurer and Joan Jones Holtz was the Committee's previous treasurer. The Committee, Schwartz, and Holtz failed to timely file four semiannual campaign statements, in violation of Government Code Section 84200 (4 counts). **Total Proposed Penalty: \$865.**

In the Matter of Pajaro Valley Cesar Chavez Democratic Club and Anthony Tapiz; FPPC No. 18/1363. Staff: Galena West, Chief of Enforcement and Tara Stock, Intake Manager. Pajaro Valley Cesar Chavez Democratic Club is a state general purpose committee. Anthony Tapiz is the Committee's Treasurer. The Committee and Tapiz failed to timely file two semiannual campaign statements, in violation of Government Code Section 84200 (2 counts), and failed to timely file a pre-election campaign statement, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$696.**

In the Matter of Melissa Bourbonnais for Supervisor 2020 and Melissa Bourbonnais; FPPC No. 20/250. Staff: Galena West, Chief of Enforcement and Dominika Wojenska, Associate Governmental Program Analyst. Melissa Bourbonnais was an unsuccessful candidate for Riverside County Supervisor in the March 3, 2020 Primary Election. Melissa Bourbonnais for Supervisor 2020 is her candidate-controlled committee. The Committee and Bourbonnais failed to timely file two pre-election campaign statements, in violation of Government Code Section 84200.5 (2 counts). **Total Proposed Penalty: \$615.**

In the Matter of Neighbors for Ruben Navarro City Council District 6 2020 and Ruben Navarro; FPPC No. 20/104. Staff: Galena West, Chief of Enforcement and Dominika Wojenska, Associate Governmental Program Analyst. Ruben Navarro was an unsuccessful candidate for San Jose City Council in the March 3, 2020 Primary Election. Neighbors for Ruben Navarro City Council District 6 2020 is his candidate-controlled committee. The Committee and Navarro failed to timely file two pre-election campaign statements, in violation of Government Code Section 84200.5 (2 counts). **Total Proposed Penalty: \$454.**

In the Matter of Karen S. Nowicki; FPPC No. 18/1387. Staff: Galena West, Chief of Enforcement and Dominika Wojenska, Associate Governmental Program Analyst. Karen S. Nowicki was a successful candidate for Hermosa Beach City Treasurer in the November 3, 2015 General Election and November 5, 2019 General Election. Nowicki failed to timely file an officeholder and candidate campaign statement short form, in violation of Government Code Section 84206 (1 count). **Total Proposed Penalty: \$200.**

Campaign Late Reporter**In the Matter of Armendarez for Supervisor 2020, Jesse Armendarez, and Stephen Dunn;**

FPPC No. 20/365. Staff: Jenna C. Rinehart, Commission Counsel and Luz Bonetti, Supervising Management Auditor. Jesse Armendarez was a successful candidate for District 5 San Bernardino County Board of Supervisors in the March 3, 2020 Primary Election. Armendarez for Supervisor 2020 is his candidate-controlled committee. Stephen Dunn was the Committee's treasurer. The Committee, Armendarez, and Dunn failed to report contributions received to individual contributors on a semiannual campaign statement, in violation of Government Code Section 84211 and the San Bernardino County Ordinance Section 12.4310 (1 count). **Total Proposed Penalty: \$410.**

II. LEGAL DIVISION

STAFF: DAVID BAINBRIDGE, GENERAL COUNSEL

A. Pending Litigation

California State Association of Counties and California School Boards Association v. FPPC
Los Angeles County Superior Court, Central District, Case No. BS174653

On September 11, 2018, petitioners served a first amended petition for writ of mandate and complaint for declaratory relief. Petitioners allege that Regulations 18420.1 and 18901.1 are invalid as a matter of law, that the Commission has exceeded its jurisdiction in adopting these Regulations, and that the Regulations are unenforceable.

The Attorney General's Office is representing the Commission and timely filed an answer to the petition/complaint. On March 4, 2019, the Commission filed a Motion for Judgment on the Pleadings.

On March 29, 2019, the Commission's Motion for Judgment on the Pleadings was granted with leave to amend. The court vacated all hearing dates and set a new trial setting conference. Plaintiffs timely filed a Second Amended Complaint (SAC) on June 27, 2019.

The Commission filed a demurrer and the hearing occurred on November 22, 2019. In its ruling, the court: (1) sustained the demurrer to the first cause of action without leave to amend; (2) sustained the demurrer with leave to amend on plaintiff CSBA's standing on all cause of action and plaintiff CSAC's standing on all causes of actions challenging Regulation 18901.1; and (3) overruled the remaining grounds for demurrer.

Plaintiffs filed a third amended complaint and the Commission has filed an answer. The trial setting conference originally scheduled for April 3, 2020, has been continued to June 24, 2020, at 9:30 a.m. in Dept. 86.

B. Outreach and Training

- Political Reform Consultant, Katie Trumbly, conducted a webinar Form 700 Filing Officers, hosted by the FPPC, on May 13. Approximately 400 people logged in.
- Political Reform Consultant, Alexandra Castillo, conducted a Form 700 Filing Officer individualized training webinar for the City of Victorville on May 18th.
- Political Reform Consultants Stephen Hernandez and Katie Trumbly conducted a Candidate/Treasurer webinar for the Oakland Ethics Commission on May 28th. This was originally scheduled as an in-person training, but we reached out to Oakland and rescheduled it as a webinar. 32 people joined the webinar.

- Video Tutorials: Commission video tutorials were accessed a total of 346 times in May. Form 700 videos were accessed 222 times, the Candidate/Treasurer video was accessed 75 times, and the filing officer videos were accessed 49 times.

Scheduled Webinars

- June 4th, Political Reform Consultant, Alexandra Castillo, will conduct a Form 700 Filers webinar for the California Sheriffs' Association. So far, 29 are registered.
- June 10th, Political Reform Consultants Adam Ramirez and Katie Trumbly will conduct a Combo Filing Officer webinar for the City of Livermore. There are 210 registrants to date.
- July 16th, Political Reform Consultants Adam Ramirez and Alexandra Castillo will conduct two webinars for the City of Buena Park. One webinar will be for Candidates/Treasurers and the other will be for Campaign Filing Officers.
- July 29th, Political Reform Consultants, Stephen Hernandez and Katie Trumbly will conduct a Candidate/Treasurer webinar for the City of Livermore.
- August 11th, Political Reform Consultants, Stephen Hernandez and Alex Castillo will conduct a Candidate/Treasurer webinar for the City of Santa Clara.

C. Advice

The May 2020, Advice Letter Report is available at <http://fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/advice-letter-reports/2020/Advice%20Letter%20Report%20May%202020.pdf>.

In May, the Legal Division responded to the following requests for advice:

- ***Requests for Advice:*** The Email Advice and Conflict of Interest Code Program and Legal Division attorneys collectively responded to more than 740 e-mail and telephone requests for advice, 34 of which were not responded to within 24 hours.
- ***Advice Letters:*** The Legal Division received six advice letter requests under the Political Reform Act and completed eight.
- ***Section 1090 Letters:*** The Legal Division received five advice letter requests concerning Section 1090 and completed one. This year to date, we have received 21 advice requests regarding Section 1090.

D. Miscellaneous Decisions

None to report.

E. Potential Upcoming Regulations

July 16th, 2020

- Public Generally Exception (Regulation 18703): Amend the existing regulation to provide greater clarity on when the public generally exception will apply to a financial conflict of interest. (Prenotice Discussion.)
- Minor and Technical Clean-Up Regulations. (Adoption.)

August 20th, 2020

- Enforcement Proceedings (Regulations 18360, 18361.4, 18361.5, 18361.9, 18404.2): Various changes to Enforcement proceedings and practices including updating and clarifying the process for Enforcement complaints, probable cause proceedings, administrative hearings, adoption of proposed decisions by an administrative law judge, and administrative termination. (Adoption.)

September 17, 2020

- Public Generally Exception (Regulation 18703): Amend the existing regulation to provide greater clarity on when the public generally exception will apply to a financial conflict of interest. (Adoption.)
- Statement of Economic Interests (Regulations 18110, 18115, 18735, and 18754): Amend existing regulations regarding the filing of Statements of Economic Interests in light of issues resulting from the significant increase in the use of electronic filing. Also, consider a new regulation governing the filing of a single statement by an official with multiple positions. (Prenotice Discussion.)

F. Conflict of Interest Codes

Adoptions and Amendments

State Agency Conflict of Interest Codes

- CA Catastrophe Response Council
- Department of Consumer Affairs
- Department of Education

Multi-County Agency Conflict of Interest Codes

- Associate of California Water Agencies JPA

- KIPP SoCal Public Schools
- Opportunities for Learning-Duarte
- Options for Youth-Duarte
- Options for Youth-San Bernardino
- Redwood Empire Schools Insurance Group

Exemptions

- None to report.

Extensions

- None to report.

G. Probable Cause Hearings

- None to report.