



## FAIR POLITICAL PRACTICES COMMISSION

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**(Unapproved and subject to change)**  
**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION**  
**MINUTES OF MEETING, Public Session**

**Thursday, April 5, 2012**

### **CALL TO ORDER**

Chair Ann Ravel called the meeting to order at 10:00 AM at 428 J Street, Eighth Floor, Sacramento, California. Chair Ravel, Commissioners Ronald Rotunda and Lynn Montgomery were present, Commissioner Elizabeth Garrett joined by phone. Commissioner Eskovitz was out of the state.

### **WELCOME AND CHAIR'S REPORT**

Ann Ravel, FPPC Chair

Chair Ann Ravel introduced the new attorney in the FPPC's General Counsel's office, Jack Woodside and provided a brief biography.

She extended an invitation to the FPPC-USC Symposium to take place on April 19, 2012 at the Sheraton Grand Hotel, Sacramento.

She announced that the FPPC will stream the Commission meetings going forward—the first live stream will take place at the May 17, 2012 Commission meeting and a link will be placed on the FPPC website.

### **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.**

Commissioner Rotunda made two comments regarding agenda item number 44: Discussion of Online Posting of Statements of Economic Interests filed by Elected Judges, from the March 15, 2012 Commission meeting. Commissioner Rotunda urged the staff to (1) Review the ABA Model Rules of Judicial Conduct 3.15 (d), which says Judges judicial statements should be promptly posted on the web if it is technically feasible, and (2) Go to [www.judicialwatch.org](http://www.judicialwatch.org) to find financial disclosure statements of federal judges.

**2. Approval of March Commission meeting minutes.**

Commissioner Montgomery made a motion to approve the March 15, 2012 Commission meeting minutes. The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

Chair Ravel asked the Commission if there were items to be pulled from the consent calendar; Gary Winuk, Chief of Enforcement asked that item 5: In the Matter of Davis Democratic Club and Elizabeth R. Weir, FPPC No. 08/390 be pulled. This item was moved to the May 17, 2012 Commission meeting agenda.

**PROPOSED CONSENT CALENDAR ITEMS 3 – 10 EXCEPT ITEMS 5 and 11**

**Campaign Reporting Violations**

- 3. In the Matter of American Resort Development Association Resort Owners' Coalition PAC and Sandra DePoy, FPPC No. 11/860. Total Proposed Penalty: \$2,500.**
- 4. In the Matter of Cynthia Lashbrook and Cindy Lashbrook For Merced College Trustee 2010, FPPC No. 10/1085. Total Proposed Penalty: \$2,500.**
- 5. In the Matter of Kai Stinchcombe and Vote for Kai – Assembly 2010, FPPC No. 10/652. Total Proposed Penalty: \$4,000.**

### **Campaign Reporting Violations – Streamline**

6. **In the Matter of Kings County Democratic Central Committee, Walter Johnson, Treasurer, FPPC No. 11/597. Total Proposed Penalty: \$200.**
7. **In the Matter of Matthew Stadtler, FPPC No. 11/1048. Total Proposed Penalty: \$200.**
8. **In the Matter of Vazquez for National School District 2010; Elizabeth Vazquez; Carlos M. Solorzano, Jr, FPPC No. 11/1061. Total Proposed Penalty: \$400.**

### **Mass Mailing Violation**

9. **In the Matter of L.A. County Firefighters Local 1014 Organized, Ready & Committed in Emergencies, and John Smolin, Treasurer, FPPC No. 11/1026. Total Proposed Penalty: \$8,000.**

### **Statement of Economic Interests – Streamline**

10. **In the Matter of Nicholas Mitchell, FPPC No. 11/1171. Total Proposed Penalty: \$200.**

Commissioner Rotunda made a motion to approve the consent calendar. The motion was seconded by Commissioner Montgomery.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

### **Campaign Reporting Violation – For Commission Discussion**

11. **In the Matter of Doris Neel, FPPC No. 09/615 (Default Decision).** Staff: Commission Counsel Bridgette Castillo and Special Investigator Sandra Buckner. Michael Glover was a successful candidate for California State Assembly, 70<sup>th</sup> District (“California State Assembly”), in the June 6, 2006, primary election and the June 3, 2008, primary election. However, Glover was an unsuccessful

candidate for California State Assembly in the November 7, 2006, general election, the November 4, 2008, general election, and the June 8, 2010, primary election. Committee to Elect Mike Glover for 70<sup>th</sup> AD, 2010 (“Committee 2010”) was the controlled committee of Glover’s 2010 election campaign. The Commission entered a Default Decision and Order against Michael Glover and Committee 2010 at the March 15, 2012, Commission meeting and therefore, Respondent Doris Neel is the only named respondent in this Default Decision and Order. Respondent Neel was the treasurer of Committee 2010 from February 19, 2010, through July 30, 2010. In this matter, Glover, Committee 2010, and Respondent Neel: 1) failed to file pre-election campaign statements in electronic format, in violation of Government Code Sections 84200.5, subdivision (a), 84200.7, subdivision (a), and 84605, subdivision (a) (2 counts); and 2) failed to file a semi-annual campaign statement in electronic format, in violation of Government Code Sections 84200, subdivision (a) and 84605, subdivision (a) (1 count). **Total Proposed Penalty: \$6,000.**

Gary Winuk, Chief of Enforcement addressed the Commission. He stated that this item was previously presented on the March 15, 2012 Commission meeting agenda. The Commission directed staff to; (1) More clearly articulate the mitigating evidence with regard to Respondent Doris Neel; and (2) Request Respondent Doris Neel to provide medical information with regard to her condition. Mr. Winuk noted that additional documentation was presented and recommended a default judgment against Respondent Doris Neel and agreed to not pursue collection efforts against the judgment due her medical condition ([see page 10 of the exhibit](#)).

Commissioner Rotunda made a motion to approve the staff’s recommendation. The motion was seconded by Commissioner Garrett.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

## **GENERAL ITEMS 12 - 14**

### **12. In the Matter of Chris Norby, Norby for Supervisor, and Betty Presley, FPPC No. 09/773**

Chair Ravel addressed Darryl Wold of Reed and Davidson LLP, the attorney for Respondent Chris Norby. A request was made and approved to move Item 12 to the end of the agenda, as this matter would require the Commission to deliberate in a closed session.

### **13. Adoption of Regulation 18412; Amendment of Regulations 18413 and 18215.** Staff: Senior Commission Counsel Lawrence T. Woodlock and General Counsel Zackery P. Morazzini. Staff proposed adoption of Regulation 18412 to provide clear accounting rules for identifying donations to multi-purpose groups that would be classified as “contributions” under the Act’s “one bite of the apple” provision at Regulation 18215(b)(1). Staff also proposed related amendments to Regulations 18413 and 18215.

Larry Woodlock, Senior Commission Counsel addressed the Commission and affirmed that this regulation package aspires to make disclosures more accurate.

Commissioner Garrett asked if staff considered several commentators’ suggestion that certain groups, that are not very active in politics, be exempted from the regulation. Mr. Woodlock referenced the comment letters and explained that statutory qualification thresholds cannot be altered.

Diane Fishburn, of Olson, Hagel and Fishburn and Melissa Mikesell from the Alliance for Justice addressed the Commission.

Commissioner Montgomery expressed concern regarding a single large donor in a LIFO approach who makes up the whole of the expenditure and asked for clarification of how to disclose donors who donated specifically for political purposes.

Mr. Woodlock stated major donors should be captured by the reporting. The LIFO rule was intended to avoid a subjective rule that differed by committee.

Mr. Woodlock proposed amended language to Regulation 18413 to add cross references.

Commissioner Rotunda made a motion to add the amended language to Regulation 18412 and 18415. The motion was seconded by Commissioner Garrett.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

Chair Ravel expressed her sensitivity to the concerns raised regarding non-profits and recommended staff, specifically the Legal Division, to conduct Interested Persons meetings to discuss the concerns of non-profit organizations.

Commissioner Rotunda made a motion to approve the full Regulation package as amended. The motion was seconded by Commissioner Garrett.

Ayes: Commissioners Rotunda, Garrett and Chair Ravel

Nos: Commissioner Montgomery

The motion passed 3 to 1.

**14. Approval of Form 802, Agency Report of Ceremonial Role Events and Ticket/Admission Distributions.** Staff: Lynda Cassady, Chief, Technical Assistance Division. Staff requests approval of revisions made to add greater clarity and conform to recent regulatory changes.

Commissioner Montgomery made a motion to adopt the form, without a staff presentation. The motion was seconded by Commissioner Garrett.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

## **DISCUSSION ITEM 15**

**15. Discussion Item: Independent Expenditures.** Staff: Chief of Enforcement Gary Winuk will discuss potential legislative proposals regarding independent expenditures disclosure and enforcement.

Gary Winuk, Chief of Enforcement addressed the Commission and requested direction to pursue as legislative agendas:

1. 24-hour reporting of Independent Expenditures
2. Advertisement Disclosure for Independent Expenditures
3. Independent Expenditure Source Verification
4. Principle Officer Liability
5. Cumulate Independent Expenditures on Reports

Commissioner Rotunda directed staff to provide a breakdown of proposed costs, so that the Commission has a full picture of costs associated with these legislative agenda items.

Commissioner Garrett commended staff for bringing forward these ideas, supports staff proposals regarding independent expenditures disclosure and enforcement, and directed staff to lend more consideration to thresholds.

Philip Ung from Common Cause extended an invitation to join the FPPC in working on potential legislative proposals regarding independent expenditures disclosure and enforcement.

Commissioner Garrett made a motion to direct staff to move forward with potential legislative proposals regarding independent expenditures disclosure and enforcement. The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

## **STAFF REPORTS ITEMS 16 - 23**

16. **Executive Director's Report.** Staff: Executive Director, John Wallace  
As Submitted
18. **Litigation Report.** Staff: General Counsel, Zackery P. Morazzini  
As Submitted
19. **Legal Division Report.** Staff: General Counsel, Zackery P. Morazzini  
As Submitted
20. **Enforcement Division Report.** Staff: Chief of Enforcement, Gary Winuk  
As Submitted
21. **Technical Assistance Division Report.** Staff: Chief of T.A.D., Lynda Cassady  
As Submitted
22. **Administrative Division Report.** Staff: Chief of Admin, Tina Bass  
As Submitted
17. **Legislative Report.** Staff: Legislative Coordinator, Tara Stock

Tara Stock, Legislative Coordinator addressed the Commission. The Commission went through each bill listed in the memorandum and discussed the bills that raised concerns and/or questions.

The Commission supported staff recommendations on the following bills:

AB41, SB31, SB1426, SB1553 (support if amended), AB1509, AB1881, AB2054, AB2062, AB2129, AB2162, AB2191, AB2256, AB2452, AB2503

### **SB1001 (Yee)**

Lobbyist Registration Fees

#### **Existing Law**

The Secretary of State may charge each lobbying firm and lobbyist employer a fee of up to \$25 per year for each lobbyist required to be listed on its registration statement.



**Proposed Law**

This bill would increase the maximum annual registration fee to \$50 per year and require the Commission to adjust the fee on December 1 of each even-numbered year to reflect any increase in the Consumer Price Index.

**Commission position:** Neutral

Commissioner Garrett expressed concerns and referenced Common Cause's comment letter.

Philip Ung from Common Cause explained that they are currently in discussions with the Department of Finance and Legislative Counsel. The intent is that the monies are sequestered in a way that it can be appropriated for the maintenance of the transparency website.

Commissioner Garret made a motion to change the staff position to support if the money is sequestered for the purposes consistent with the intent. The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Rotunda, Garrett, Montgomery, and Chair Ravel.

The motion passed 4 to 0.

**SB1296 (Fuller)**

Ballot Pamphlets

**Existing Law**

Upon receipt of a draft of a petition for a proposed initiative or referendum, the Attorney General is required to prepare a title and summary of the proposed measure. If the Attorney General determines that a proposed measure would affect state or local revenues or expenditures, he or she must include in the title either the estimate or an opinion as to whether a substantial net change in state or local finances would result if the proposed initiative is adopted. The Department of Finance and the Joint Legislative Budget Committee jointly prepare the fiscal estimate that may be included in the title.

**Proposed Law**

This bill would require the Legislative Analyst, instead of the Attorney General, to prepare the ballot title and summary for all measures submitted to the voters. And, the Legislative Analyst, instead of the Department of Finance and the Joint Legislative

Budget Committee, would be required to prepare any fiscal estimate or opinion required by a proposed initiative measure.

**Commission position:** Neutral

Commissioner Garrett expressed concerns and urged the Commission to support the bill as a necessary part of improving governance institutions and Commissioner Rotunda agreed.

Chair Ann Ravel expressed agreement that this is good governance, but expressed concerns that determining who write titles and summaries of measures is outside the purview of the Commission.

Commissioner Garret made a motion to change the staff position to support. The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Rotunda and Garrett

No: Chair Ravel and Commissioner Montgomery

The motion failed 2 to 2.

### **AB1648 (Brownley)**

Advertisement Disclosure

#### **Existing Law**

The Act requires that each slate mailer identify each candidate and ballot measure that has paid to appear in a slate mailer be designated by an asterisk. The Act also places certain disclosure requirements on advertisements for or against a ballot measure broadcast or mass mailing advertisements that are paid for by an independent expenditure to support or oppose a candidate or ballot measure. For example, a broadcast or mass mailing advertisement supporting or opposing a candidate or measure paid for by an independent expenditure must include the name of the two highest cumulative of \$50,000 or more.

#### **Proposed Law**

This bill would require that a candidate or ballot measure appearing in a slate mailer be designated by an asterisk if the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures has received payment to include the candidate or measure. The bill also makes several significant changes to the advertisement disclosure rules, including the following: 1) Radio, TV, and video ads

authorized by a candidate must include a statement saying he/she approved the ad; 2) Radio, TV, and video ads that are not authorized by a candidate must disclose the top three cumulative donors of \$10,000 or more and TV and video ads must also include logos, if any, of those donors; 3) The definition of “cumulative contribution” would be changed to include contributions received by a committee 18 months (instead of the current 12 months) prior to the date the committee made its first expenditure; and, 4) Except for committees that are controlled by a candidate, a committee that pays for an advertisement shall establish and maintain a “committee disclosure Internet Web site” with specified information.

**Commission Position:** Neutral

Commissioner Garret expressed concerns with the estimated fiscal impact and requested an example of a constitutional issue with this proposed legislation.

Chuck Bell on behalf of the law firm Bell, McAndrews & Hiltachk addressed the Commission and explained that one threshold of constitutional challenge is: this bill will appear to reenact provisions that were struck down by the Federal District Court in a case in which the California Republican and Democratic Parties were the plaintiffs and the FPPC was the defendant, involving the application this rule to party committees and general purpose committees.

Commissioner Garrett directed Legal Counsel to provide more background information to support their analyses in the future.

Zack Morazzini, General Counsel, expressed concerns on the advertising disclosure rules, specifically as it relates to protected speech. The Commission could incur costs by attributing personnel hours in defending the Political Reform Act.

Commissioner Rotunda directed staff to provide a breakdown of the estimated fiscal impact, so that the Commission has a full picture of costs associated with these legislative agenda items.

The Commission’s position remains neutral

## **AB1730 (Olson)**

Legislative Transparency Act

### **Existing Law**

The Act imposes various reporting and disclosure requirements on contributions made to or received by candidates and candidate-controlled committees.

### **Proposed Law**

This bill would require a Member of the Legislature or a controlled committee of a Member to report within 24 hours a contribution of \$100 or more received within the seven days prior to specified legislative deadlines for a regular session of the Legislature. In addition, the bill contains provisions outside of the Act, which would prohibit either house of the Legislature from voting on a bill until it has been available on a public website for at least 72 hours (unless the house dispenses this requirement by a 2/3 vote), and would require the Rules Committees to provide to each Member of the Legislature a monthly report of that Member's office budget.

Commission Position: Support the PRA provision only; no position on other provisions

Commissioner Montgomery requested clarification on the part of the bill that affects the PRA.

Tara Stock explained—requiring a Member of the Legislature or a controlled committee of a Member to report within 24 hours a contribution of \$100 or more received within the seven days prior to specified legislative deadlines for a regular session of the Legislature, affects the PRA.

Commissioner Montgomery made a motion to change the staff position to neutral.

Commissioner Garrett expressed concerns with the \$100 threshold.

Commissioner Rotunda made a motion to support staff position to support the PRA provision only; no position on other provisions. The motion was seconded by Commissioner Garrett.

Ayes: Commissioners Rotunda, Garrett, and Chair Ravel

Nos: Commissioner Montgomery

The motion passed 3 to 1

## **AB 2220 (Gatto)**

Ballot Pamphlets

### **Existing Law**

The Legislative Analyst is required to prepare an impartial fiscal analysis of each initiative measure that is included in the ballot pamphlet stating whether the measure would increase or decrease any revenue or cost to state or local government. The Legislative Analyst must also prepare for inclusion in the ballot pamphlet a summary statement regarding the general meaning and effect of “yes” and “no” votes on each state measure.

### **Proposed Law**

This bill would require, except as specified, that if a fiscal analysis prepared by the Legislative Analyst determines that a measure would provide an increase in revenues to fund new or existing programs, that specified language be added at the end of the “yes” and “no” summary statement in the ballot pamphlet, advising that unless changed by a future measure approved by the voters, the initiative would forever dedicate the revenue to program identified in the initiative.

**Commission Position:** Neutral

Commissioner Garrett expressed that the Commission should support AB2220 and made a motion to change the staff position to support. The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Rotunda and Garrett

No: Chair Ravel and Commissioner Montgomery

The motion failed 2 to 2.

## **AB 2239 (Norby)**

Repeals Campaign Contribution Limits and Requires 24-Hour Reporting for All \$100 Contributions

This item will be moved to the May 17, 2012 Commission meeting agenda for further discussion.

**AB 2691 (Assembly Elections) – clean up bill**

This bill repeals three provisions of the Act, which are now obsolete – 84604, 84609, and 84610. Sections 84604 and 84609 relate to online or electronic disclosure requirements specific to the 1998 statewide general election and the 2000 statewide primary election. Section 84610 provides for a \$1,100,000 appropriation to the Secretary of State, which has been available for encumbrance for more than 3 years.

Commission Position: None

Commissioner Montgomery made a motion to change the staff position to support. The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Rotunda, Montgomery, Garrett, and Chair Ravel

The motion passed 4 to 0.

Chair Ravel addressed Darryl Wold, attorney for Respondent Chris Norby, to discuss agenda Item 12.

- 12. In the Matter of Chris Norby, Norby for Supervisor, and Betty Presley, FPPC No. 09/773.** Staff: Senior Commission Counsel Neal Bucknell, Commission Counsel Milad Dalju, and Special Investigator Janet Seely. At all relevant times, Respondent Chris Norby was a member of the Orange County Board of Supervisors, Respondent Norby for Supervisor was his controlled committee, and Respondent Betty Presley was the committee treasurer. On August 1, 2007, Respondent Norby checked into the Fullerton Inn and paid, in advance, for one week of lodging. He claimed that the expense was for a study of homeless/motel families, and he obtained reimbursement from his committee for the lodging expense.

Chair Ravel explained; both parties will have the opportunity to make an opening statement, confined to matters already within the record; a Q & A will follow; then the Commission will move to deliberate in a closed session and return with their final decision on the matter.

Gary Winuk, Chief of Enforcement and Neal Bucknell, Staff Counsel addressed the Commission and asked that the Commission reconsider the recommendation of the Administrative Law Judge.

Darryl Wold, attorney for Respondent Chris Norby addressed the Commission and urged the adoption of the recommendation of the Administrative Law Judge. The recommendation of the Administrative Law Judge proposed that the accusation be dismissed as to two of the Respondents Betty Presley and Respondent Chris Norby.

Chair Ravel directed the Commission to move to deliberate in a closed session.

### **CLOSED SESSION – Item 23**

#### **23. Pending Litigation (Gov. Code §11126(e)(1)).**

Deliberation, if necessary upon ALJ's Proposed Decision, In the Matter of Chris Norby, Norby for Supervisor, and Betty Presley, FPPC No. 09/773, OAH No.2011050957.

The Commission returned from the closed session to the open agenda of the Commission meeting. Chair Ravel announced the Commission's majority vote to uphold the recommendation of the Administrative Law Judge in the matter of Chris Norby, Norby for Supervisor, and Betty Presley, FPPC No. 09/773.

Commissioner Rotunda made a motion to adjourn the Commission meeting. The motion was seconded by Commissioner Montgomery.

Ayes: Commissioners Rotunda, Montgomery, Garrett, and Chair Ravel

The motion passed 4 to 0.

Chair Ravel adjourned the meeting.