



FAIR POLITICAL PRACTICES COMMISSION

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

Thursday, December 8, 2011

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, Lynn Montgomery, and Elizabeth Garrett were present, Commissioner Sean Eskovitz joined by phone.

Welcome and Introduction

Ann Ravel, FPPC Chair

Chair Ravel presented a resolution to commend former Commissioner, Tim Hodson.

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.

Phillip Ung with Common Cause expressed concern with the fact that the Executive Director position remains vacant.

PROPOSED CONSENT CALENDAR Items 2 through 20 and 27

Item 27, approval of SEI form, was added to consent. Gary Winuk, Chief of Enforcement requested that item 4 be pulled from the consent calendar due to last

minute changes. Commissioner Garrett requested that items 5 and 6 are pulled from the consent calendar.

Campaign Reporting Violations:

2. In the Matter of Black Women Organized for Political Action State PAC, and Beryl Crumpton Potter, Treasurer, FPPC No. 10/957. Total Proposed Penalty: \$2,500.
3. In the Matter of Beverly Seedborg and Voter Guide Slate Mail, FPPC No. 09/0209 (Default Decision). Total Proposed Penalty: \$2,000.

Lobbying – Streamline:

7. In the Matter of Berkeley Patients Group, FPPC No. 11/746. Total Proposed Penalty: \$600.

Statement of Economic Interests – Failure to File – Streamline:

8. In the Matter of Max Allstadt, FPPC No. 11/506. Total Proposed Penalty: \$200.
9. In the Matter of Christopher Baker, FPPC No. 10/892. Total Proposed Penalty: \$400.
10. In the Matter of Thomas Biggs, FPPC No. 11/534. Total Proposed Penalty: \$200.
11. In the Matter of Thomas Bors, FPPC Case No. 11/870. Total Proposed Penalty: \$200.
12. In the Matter of Norman Brown, FPPC No. 11/695. Total Proposed Penalty: \$200.
13. In the Matter of Chin Chin Cheng, FPPC No. 11/963. Total Proposed Penalty: \$200.

14. **In the Matter of Emilio Cruz, FPPC Case No. 11/869. Total Proposed Penalty: \$400.**
15. **In the Matter of Carol Hatley, FPPC Case No. 11/868. Total Proposed Penalty: \$200.**
16. **In the Matter of Neil Struthers, FPPC No. 11/982. Total Proposed Penalty: \$200.**
17. **In the Matter of Nicholas Travis, FPPC No. 11/937. Total Proposed Penalty: \$200.**
18. **In the Matter of David Tripp, FPPC No. 11/839. Total Proposed Penalty: \$200.**
19. **In the Matter of Troy Van Velson, FPPC No. 11/938. Total Proposed Penalty: \$200.**
20. **In the Matter of Charles Wyatt, FPPC No. 11/846. Total Proposed Penalty: \$200.**
27. **Approval of Statement of Economic Interests Forms and Instructions for 2011/12.** Staff: Lynda Cassady, Chief, Technical Assistance Division. Staff requests approval of the 2011/12 Statement of Economic Interests (Form 700) and Form 700 Reference Pamphlet; Statement of Economic Interests for Auditors, Claims Managers/Adjusters (Form 700-A); and the Statement of Economic Interests for Principal Investigators (Form 700-U).

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

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

The motion passed 5 to 0.

4. **In the Matter of Frank Jewett and Committee to Elect Frank Jewett 4 Campbell City Council, FPPC No. 11/150 (Default Decision).** Staff: Senior Commission Counsel Neal Bucknell, Political Reform Consultant Jeanette Turvill, Legal Analyst Tracey Frazier, and Law Clerk Bridgette Gallagher. Respondent Frank Jewett was a candidate for Campbell City Council in the election held November 2, 2010. Respondent Committee to Elect Frank Jewett 4 Campbell City Council was his controlled committee. In this matter, Respondents failed to timely file two pre-election campaign statements for the periods, failing to report \$3,435 in contributions and \$1,576 in expenditures for the reporting period ending September 30, 2010 and October 16, 2010, in violation of Government Code section 84200.5 (2 counts). **Total Proposed Penalty: \$2,000.**

The enforcement division received a signed stipulation and asked that the default penalty is changed to the agreed upon stipulation.

Commissioner Garrett made a motion to approve the penalty agreed upon in the stipulation. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

5. **In the Matter of David Cole, FPPC No. 06/1148 (Default Decision).** Staff: Senior Commission Counsel Angela Brereton and Special Investigator Leon Nurse-Williams. Respondent David Cole was a member of the Pinole City Council and also a board member of the Pinole Redevelopment Agency in Pinole, CA, from 2000 to 2007. Respondent Cole owned and operated Pinole Valley Landscape (PVL). PVL provided services to and received substantial income from The Kivelstadt Group (TKG), a real estate developer and property management company active in the City of Pinole. Respondent Cole, through PVL, earned \$253,353 from TKG from 2003 through 2006. On at least 16 occasions from 2003 – 2007, Respondent Cole made governmental decisions in which he had a material financial interest, by voting on matters before the Pinole Redevelopment Agency and the Pinole City Council involving TKG, which was a source of income to Respondent Cole, in violation of Government Code Section 87100 (16 counts); failed to disclose his income from and business position with PVL in his annual Statements of Economic Interests for 2003 – 2006, in violation

of Government Code Sections 87207, subdivision (b) and 87209 (4 counts); and failed to disclose TKG as a source of income to him through PVL in his annual Statements of Economic Interests for 2003 – 2005, in violation of Government Code Section 87207, subdivision (b)(2) (3 counts). **Total Proposed Penalty: \$111,500.**

- 6. In the Matter of Claudia Chandler, FPPC No. 10/806.** Staff: Chief of Enforcement Gary Winuk and Special Investigator Janet Seeley. Respondent Claudia Chandler (Respondent) was the Chief Deputy Director of the California Energy Commission (CEC). In this matter, Respondent impermissibly participated in two governmental decisions in which she had a financial interest. From April 2009 to July 2009 and from August 2010 to September 2010, Respondent participated in government decisions, the awarding of two contracts from the CEC to Cambria Solutions, a company in which she had a personal financial interest through her community property interest in her husband's business, in violation of Government Code Section 87100 (2 Counts). **Total Proposed Penalty: \$6,000**

Commissioner Garrett made a motion to approve the default penalties for items 5 and 6. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

GENERAL ITEMS 21 through 26

Regulations:

- 22. Adoption of Amendments to Regulations, 18942, 18942.1, 18942.3, 18946.2, 18946.4, and 18946.6.** Staff: Senior Commission Counsel William J. Lenkeit and General Counsel Zackery P. Morazzini. At the November meeting, staff proposed to revise and update the gift regulations for overall consistency and clarity, and to codify exceptions previously provided in Commission opinions and staff advice letters for "acts of neighborliness," and "bona-fide dating relationships." New exceptions for "acts of human compassion" and "long term friendships" were also

proposed. The packet was adopted by the Commission, except for six items that were carried forward and are currently set for further discussion by the Commission in December.

Commissioner Montgomery made a motion to amend 18942, the ceremonial role exception and 18946.2 invitation only event, drop-in event and non-profit fundraisers to allow 2 tickets. The motion was seconded by Commissioner Eskovitz.

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

Nos: Commissioner Rotunda

The motion passed 4 to 1.

Commissioner Garrett made a motion to repeal 18941.1. The motion was seconded by Commissioner Montgomery.

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

The motion passed 5 to 0.

Commissioner Montgomery made a motion to adopt 18942 with amendments. The motion was seconded by Commissioner Eskovitz.

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

Nos: Commissioner Rotunda

The motion passed 4 to 1.

Commissioner Garrett made a motion to adopt 18942.1 with amendments. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

Commissioner Rotunda made a motion to adopt 18942.3 with amendments to the

definition of ceremonial role. The motion was seconded by Commissioner Eskovitz.

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

Commissioner Garrett was away on break.

The motion passed 4 to 0.

Commissioner Montgomery made a motion to adopt 18946.2 with amendments to the language. The motion was seconded by Commissioner Garrett.

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

The motion passed 5 to 0.

Commissioner Montgomery made a motion to adopt 18946.4 with amendments to the language to allow two tickets. The motion was seconded by Commissioner Garrett.

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

The motion passed 5 to 0.

Commissioner Montgomery made a motion to adopt 18946.6 with amendments to the language. The motion was seconded by Commissioner Eskovitz.

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

The motion passed 5 to 0.

Commissioner Rotunda made a motion for the gift regulation to go into effect on January 1, 2012. The motion was seconded by Commissioner Garrett

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

The motion passed 5 to 0.

24. Amendment of Regulations 18423, 18539 and 18550 – Payments for

Personal Services and Online Disclosure of Contributions and Independent Expenditures. Staff: Senior Commission Counsel Hyla Wagner and General Counsel Zackery P. Morazzini. Minor amendments to these regulations will codify current FPPC staff advice. The amendment to Regulation 18423 clarifies the date that an in-kind contribution of the services of salaried personnel to a committee is considered to be made as the *payroll date*. Amendments to Regulations 18539 and 18550 clarify that the term “election cycle” in Section 85204 applicable to the 90-day reports filed under Sections 85309 and 85500 means 90 days before a *state election* in which the candidate or measure, in connection with which the contribution or independent expenditure was made, is on the ballot.

Commissioner Garrett made a motion to adopt regulations 18423, 18539, and 18550. The motion was seconded by Commissioner Montgomery.

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

The motion passed 5 to 0.

25. Repeal and Readoption of Regulation 18247.5; Adoption of Regulation 18227.5 – Primarily Formed and General Purpose Committees. Staff: Senior Commission Counsel Hyla Wagner and General Counsel Zackery P. Morazzini. Staff proposes repealing the existing regulation concerning primarily formed and general purpose committees and adopting two separate regulations. The new regulations simplify the determination of when a committee is a primarily formed or general purpose committee and whether it is a city, county or state committee

Commissioner Garrett made a motion to adopt 18227.5 with option 1. The motion was seconded by Commissioner Eskovitz.

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

The motion passed 5 to 0.

Commissioner Garret made a motion to adopt 18247.5 with the quarterly option. The motion was seconded by Commissioner Montgomery.

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

The motion passed 5 to 0.

- 26. Adoption of Proposed Regulation 18404.2 – Administrative Committee Termination.** Staff: Commission Counsel Brian G. Lau and General Counsel Zackery P. Morazzini. Staff proposes Regulation 18404.2 establishing a procedure for the administrative termination of recipient campaign committee if the committee has (1) not filed a campaign statement in the previous twelve months, (2) last reported a cash balance of \$3,000 or less, (3) been provided notice of the proposed termination, and (4) failed to object to the termination.

Commissioner Garrett made a motion to adopt 18404.2 with amendments. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

Commissioner Rotunda left the meeting.

- 23. Adoption of Regulation 18412; Amendment of Regulations 18413 and 18215.** Staff: Senior Commission Counsel Lawrence T. Woodlock and General Counsel Zackery P. Morazzini. Staff proposes adoption of a new 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 proposes related amendments to Regulations 18413 and 18215.

Item 23 will be held over for consideration at the March 15, 2012 meeting.

Proposed Approval of Decision of Administrative Law Judge:

- 21. In the Matter of Shong-Ching Tong, FPPC No. 10/449.** Staff: Political Reform Consultant Jeanette E. Turvill. Respondent Chin Chin Cheng, Senior Programming Analyst for the County of Santa Clara, failed to file a Statement of

Economic Interests for the reporting period of January 1, 2010, through December 31, 2010, due April 1, 2011, in violation of Government Code Section 87300 (1 count). **Following a hearing in Los Angeles, Administrative Law Judge Eric Sawyer issued a proposed decision imposing an administrative penalty in the amount of \$5,250.**

Commissioner Garrett made a motion to approve the ALJ decision. The motion was seconded by Commissioner Montgomery.

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

The motion passed 4 to 0.

STAFF REPORTS – Items 28 through 33

28. Legislative Report. Staff: Legislative Coordinator, Tara Stock – As submitted.

29. Litigation Report. Staff: General Counsel, Zackery P. Morazzini– As submitted.

30. Legal Division. Staff: General Counsel, Zackery P. Morazzini– As submitted.

31. Enforcement Division. Staff: Chief of Enforcement, Gary Winuk– As submitted.

Commissioner Garrett made a motion to adjourn the meeting. The motion was seconded by Commissioner Eskovitz.

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

The motion passed 4 to 0.