



## FAIR POLITICAL PRACTICES COMMISSION

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

**November 10, 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

### **PUBLIC COMMENT**

Commissioner Ronald Rotunda expressed his concerns relating to the Legal Division's Analysis of Contribution Limits and LDFs in Wake of Recent Accounts of Widespread Campaign Fraud and Pending Interpleader Action.

#### **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.**

### **PROPOSED CONSENT CALENDAR Items 2 through 21**

#### **2. Approval of October 13, 2011 Commission meeting minutes.**

**Campaign Reporting Violation – Streamline:**

3. In the Matter of Carmen Avalos, Carmen Avalos for Assembly 2010, FPPC No. 10/912. Total Proposed Penalty: \$200.
4. In the Matter of Carmen Avalos, Avalos for Trustee, FPPC No. 10/917. Total Proposed Penalty: \$200.
5. In the Matter of Robert J. Evans, FPPC No. 10/661. Total Proposed Penalty: \$800.
6. In the Matter of Los Angeles League of Conservation Voters and Moe Stavnezer, Treasurer, FPPC No. 11/338. Total Proposed Penalty: \$400.
7. In the Matter of Mountain View Professional Firefighters Political Action Committee and Melton Wong, Treasurer, FPPC No. 11/107. Total Proposed Penalty: \$400.
8. In the Matter of Blanca E. Rubio, FPPC No. 10/1052. Total Proposed Penalty: \$200.
9. In the Matter of Women's National Political Caucus San Gabriel Valley, and Debra Hurd, Treasurer, FPPC No. 10/321. Total Proposed Penalty: \$200.

**Conflict of Interest:**

10. In the Matter of Gregory Fox, FPPC No. 10/798. Total Proposed Penalty: \$13,000.

**Mass Mailing Violations:**

11. In the Matter of San Bernardino Community College District, FPPC No. 11/472. Total Proposed Penalty: \$2,000.

**Statement of Economic Interests – Failure to File – Streamline:**

12. In the Matter of Lee Cherry FPPC No. 11/480 Total Proposed Penalty: \$200.

13. **In the Matter of Nina Horne, FPPC No. 11/548. Total Proposed Penalty: \$200.**
14. **In the Matter of Gloria Jeffery, FPPC No. 11/529. Total Proposed Penalty: \$200.**
15. **In the Matter of Virginia Kiraly, FPPC No. 11/845. Total Proposed Penalty: \$200.**
16. **In the Matter of Emmanuel Martinez, FPPC No. 11/248. Total Proposed Penalty: \$200.**
17. **In the Matter of Veronica Martinez, FPPC No. 11/576. Total Proposed Penalty: \$200.**
18. **In the Elisa Mazen, FPPC No. 11/835. Total Proposed Penalty: \$200.**
19. **In the Matter of George McDaniel, FPPC No. 11/563. Total Proposed Penalty: \$200.**
20. **In the Matter of Ron Owens, FPPC No. 11/541. Total Proposed Penalty: \$200.**
21. **In the Matter of Stacy Thompson, FPPC No. 11/533. Total Proposed Penalty: \$200.**

Chair Ravel asked if any member of the Commission would like to remove item from the consent calendar, none were removed.

Chair Ravel moved to approve the consent calendar. The motion was seconded by Commissioner Eskovitz.

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

The motion passed 5 to 0.

Commissioner Rotunda requested that Item 25 be held over to the December meeting. Chair Ravel explained that due to the timeline for enactment, the gift regulations need to

be voted on at the November meeting.

Commissioner Rotunda moved to move Item 26 up to after item 22. The motion was seconded by Commissioner Garrett.

Ayes: Commissioners Rotunda, Garrett

Nos: Commissioners Eskovitz, Montgomery and Chair Ravel

The motion failed 3 to 2.

### **GENERAL ITEMS 22 through 26**

#### **Re-Hearing:**

- 22. In the Matter of Frank Molina and Strategic Solutions Advisors; FPPC No. 09/807. Total Proposed Penalty: \$30,000.**

Gary Winuk, Chief of Enforcement gave a brief overview of the matter. Lance Olson, counsel for Mr. Molina asked the Commission to approve the original stipulation of \$14,000 which was previously rejected.

Commissioner Montgomery made a motion to approve the penalty of \$30,000. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

- 23. In re Costanzo Opinion Request (Our File No. O-11-178).** Staff: Assistant General Counsel John W. Wallace. The Commission considered whether to issue an opinion addressing whether two members of the Selma City Council voted in past decisions in which they had conflicts of interest. Since the matter concerned a past vote, and conflict-of-interest issues are covered in Commission regulations and advice letters that could have been consulted at that time, the General Counsel, as Acting Executive Director, denied the request.

John Wallace, Assistant General Counsel gave a brief summary of the matter.

Commissioner Montgomery made a motion to deny the request. 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 18360, 18361 and 18361.4 and Adoption of Regulations 18361.11 and 18316.6.** Staff: Enforcement Division Chief Gary Winuk and Commission Counsel Sukhi K. Brar. This proposal included amendments to Regulations 18360, 18361, 18361.4 and adoption of Regulations 18361.11, 18316.6, all related to Enforcement procedures. The areas of improvement included: (1) codification of the current practice of allowing potential respondents the ability to communicate with the FPPC before a determination to investigate an enforcement matter is made, (2) codification of the current practice of assigning the General Counsel or an attorney in the Legal Division to hear probable cause proceedings, (3) amendments allowing discovery in probable cause proceedings for respondents, (4) a new regulation implementing procedures for default decisions, and (5) a new regulation focusing on treasurer liability for committee violations that would allow the Enforcement Division the discretion to hold the party who violated the Act in limited circumstances solely accountable, focusing mainly on major donor committees.

Suhki Brar, Commission Counsel and Gary Winuk, Chief of Enforcement gave a brief overview of the proposed changes to the regulations.

Commissioner Rotunda made a motion to amend the language in §18316.6 to read, “where a secretary or treasurer performs any duty.” The motion was seconded by Commissioner Garrett.

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

The motion passed 5 to 0.

Commissioner Garrett made a motion to approve the adoption of the regulations. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

**25. Adoption of Amendments to Regulations, 18940 through 18950.4.** Staff: Commission Counsel William J. Lenkeit and General Counsel Zackery P. Morazzini. Staff proposed revisions and updates to the gift regulations for overall consistency and clarity, and to make substantive changes to take into account the “personal benefit” language in the definition of gift, along with codifying exceptions previously provided in Commission opinions and staff advice letters for “acts of neighborliness,” and “bona-fide dating relationship.” New exceptions for “acts of human compassion” and “long term friendships” were also proposed. Additional changes were proposed to the home hospitality exception and modification of the valuation rule for tickets to non-profit and political fundraising events. Finally, the travel rules were consolidated and simplified.

Sr. Commissioner Counsel, Bill Lenkeit gave an overview of all the groups and individuals who helped in making the changes to the gift regulations. The decision was made to pull the personal benefit definition, closely related gifts to agency, and travel regulations for separate consideration early next year.

Commissioner Garrett made a motion to amend the language in 18940, guide to gift regulations, page 3, line 5 to read “the forgiveness of a debt or obligation.” The motion was seconded by Commissioner Montgomery.

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

The motion passed 5 to 0.

Commissioner Garrett made a motion to amend the language in 18941, line 5 to read “official, the officials agent, or the officials family member pursuant to.” The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

After further consideration, Commissioner Garrett made a motion to remove the amendment “the official’s agent” to 18940. The motion was seconded by Commissioner Rotunda.

Commissioner Garret made a motion to amend the language in 18942, page 14, line 19, to read “home hospitality qualifies for this exclusion.” The motion was seconded by Commissioner Montgomery.

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

The motion passed 5 to 0.

Commissioner Garret made a motion to amend 18942, page 18, line 17 & 18, striking the language “or should be registered to lobby”. And amend the language to strike out engage, and insert “participated”. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

Commissioner Montgomery made a motion to amend 18942, page 19, lines 10 & 12. The motion was seconded by Commissioner Garrett.

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

The motion passed 5 to 0.

Commissioner Rotunda made a motion to amend 18942.1, page 22, to combine 1 and 3. The motion was seconded by Commissioner Garrett.

The motion was withdrawn.

Commissioner Rotunda made a motion to add “integral” To line 1 on page 22. The motion was seconded by Chair Ravel.

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

The motion passed 5 to 0.

Commissioner Rotunda made a motion to amend the definition of home hospitality on line 17. The motion was seconded by Commissioner Garrett

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

The motion passed 5 to 0.

Commissioner Garrett made a motion to amend the definition of ceremonial role in 18942.2, line 12. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

Commissioner Garrett made a motion to amend 18943, page 29, line 20. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.

Commissioner Garrett made a motion to amend 18944.1, line 16, item 3. The motion was seconded by Commissioner Rotunda.

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

The motion passed 5 to 0.



Commissioner Rotunda had to leave the meeting.

Commissioner Garrett made a motion to amend 18946.2. The motion was seconded by Commissioner Montgomery.

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

The motion passed 4 to 0.

Commissioner Garrett made a motion to amend 18946.4. The motion was seconded by Commissioner Montgomery.

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

The motion passed 4 to 0.

Commissioner Garrett made a motion to adopt option 1 in 18940.1, subdivision F. The motion was seconded by Commissioner Eskovitz.

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

The motion passed 4 to 0.

Commissioner Garrett made a motion to adopt option 1 in 18943, page 27. The motion was seconded by Commissioner Eskovitz.

Ayes: Commissioners Garrett, Eskovitz, and Chair Ravel.

Nos: Commissioner Montgomery

The motion passed 3 to 1.

Commissioner Garrett made a motion to adopt option 2 in 18946.2. The motion was seconded by Commissioner Montgomery.

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

The motion passed 4 to 0.

Commissioner Garrett made a motion to amend the language 18946.4 to increase tickets from one to two. The motion was seconded by Chair Ravel.

After further discussion the motion was retracted.

Commissioner Garrett made a motion to amend the language in 18946.5 on page 62, lines 11 and 12. The motion was not seconded.

Commissioner Montgomery made a motion to adopt regulation 18942 without the option. The motion was seconded by Commissioner Garrett.

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

The motion passed 4 to 0.

Commissioner Garrett made a motion to include the option in 18942. The motion was seconded by Commissioner Eskovitz.

Ayes: Commissioners Garrett, Eskovitz, and Chair Ravel.

Nos: Commissioner Montgomery

The motion passed 3 to 1.

Commissioner Garrett made a motion to use alternate language in 18942. The motion was seconded by Commissioner Eskovitz.

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

The motion passed 4 to 0.

Regulations that will be brought back at the December 8<sup>th</sup> Commission meeting are 18942, 18942.1, 18942.3, 18946.2, 18946.4, 18946.6, 18949.3

Commissioner Garrett made a motion to adopt regulations 18940, 18940.1, 18940.2, 18941, 18942.2, 18943, 18944.1, 18944.2, 18944.3, 18945, 18945.1, 18945.2, 18945.3, 18946, 18946.1, 18946.3, 18946.5 with amendments. The motion was seconded by Commissioner Montgomery.

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

The motion passed 4 to 0.

**STAFF REPORTS – Items 27 through 32**

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

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

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

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

**31. Technical Assistance Division.** Staff: Chief of T.A.D., Lynda Cassady– As submitted.

**32. Administration Division.** Staff: Chief of Administration, Tina Bass

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

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

The motion passed 4 to 0.