



(Unapproved and subject to change)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Thursday, July 21, 2022
10:00 a.m.

Present: Chair Miadich, Commissioner Baker, Commissioner Wilson, and Commissioner Wood

Staff Present: Galena West, Executive Director
Angela Brereton, Chief of Enforcement
Dave Bainbridge, General Counsel
Loressa Hon, Chief of Administration
Shrdha Shah, Chief of Audits and Assistance
Karen Harrison, Senior Commission Counsel
Toren Lewis, Commission Counsel
Kevin Cornwall, Commission Counsel
Lindsey Nakano, Senior Legislative Counsel
Sasha Linker, Commission Assistant

Call to Order.

Chair Miadich called the meeting to order at 10:02 AM.

1. Public Comment for Items not on Agenda.

2. Closed Session. Pending Litigation.

The Commission adjourned for closed session at 10:02 a.m. and reconvened at 10:40 a.m.

3. Approval of Commission Minutes.

MOTION: To approve May 2022 Commission Meeting Minutes. Moved by Commissioner Baker; seconded by Commissioner Wilson. The motion passed 4-0.

7-9. Consent Calendar.

MOTION: To approve consent calendar items 7-9. Moved by Commissioner Wilson; seconded by Commissioner Wood. The motion passed 4-0.

4. In the Matter of Andrew Do; FPPC Nos. 16/510 and 18/648.

Angela Brereton, Chief of Enforcement, gave an overview of why this stipulation is being presented with two case numbers and how the Enforcement Division came to this decision.

Chair Miadich asked why this case took six years to come before the Commission. Ms. Brereton discussed general reasons why some cases take longer than others.

Commissioner Baker asked about contentions in the stipulation provided by the officials themselves and whether the Enforcement Division ever validated these contentions. Ms. Brereton stated they do not investigate every contention made but she will work to affirm factual statements in stipulations.

MOTION: To approve item 4. Moved by Commissioner Wilson; seconded by Chair Miadich. The motion passed 4-0.

5. In the Matter of Steve Dallas; FPPC No. 18/804.

Ms. Brereton gave an overview of the presented stipulation.

Commissioner Baker stated she needed more detail about the negligence comment on page eight of the stipulation and asked how being trained in the requirements of the Political Reform Act supports a finding of negligence. The Chair pointed out that the next sentence is relevant to negligence in that it states he corrected his SEIs before Enforcement contact.

Commissioner Wilson asked if there were any options to increase the fine and what the process or hurdles would be. Ms. Brereton stated Enforcement could charge individually for each gift that is late reported and each gift that is over the limits, but the practice is to charge per statement.

MOTION: To approve item 5. Moved by Commissioner Wood; seconded by Chair Miadich. The motion passed 4-0.

6. In the Matter of Claire Crandall; FPPC No. 16/741.

Commissioner Wilson questioned why the fine is so low given all the facts in the stipulation. Ms.

Brereton stated there is only one violation and the maximum fine is being pursued. Ms. Brereton stated the 2012 contract is outside the statute of limitations and the second contract is included in a tolling agreement to get this stipulation before the Commission.

Commissioner Baker asked if this case could be referred to District Attorneys or other law enforcement agencies. Ms. Brereton stated law enforcement was involved throughout the investigation, but they could be brought back in.

MOTION: To refer the item and all the facts included to the Ventura County and San Diego County District Attorney today. Moved by Commissioner Baker; there was no second.

Chair Miadich discussed what would happen if this case is not approved today. Ms. Brereton stated an administrative action could be pursued but the end result of an administrative action would not be more than \$5,000.

MOTION: To approve item 6 and refer the item to the Ventura County and San Diego County District Attorney. Moved by Chair Miadich; seconded by Commissioner Wood. The motion passed 4-0.

10-11. Pre-Notice Defaults.

Ms. Brereton updated the Commission that the respondents in both items have not been in communication with the Enforcement Division.

Commissioner Wilson asked whether the Galvan fine is one of the highest the Commission has seen.

Galena West, Executive Director, stated this is not the highest fine and referred to the recent Los Angeles County settlement.

Commissioner Wood asked what happens when the respondent does not pay. Ms. Brereton discussed the procedure for processing default decisions. Commissioner Wilson asked what the success rate of collecting defaults is. Ms. West responded by offering a presentation on the default process later in the year.

The Commission adjourned for break at 11:45 a.m. and reconvened at 12:01 p.m.

14. Adoption of Proposed Regulation to Authorize the Making of Contributions via Cryptocurrency.

Dave Bainbridge, General Counsel, gave an overview of the regulation project and how the regulation works with the use of a processor.

Chair Miadich had technical suggestions to the language that would help clarify the language in (b)(1) “Has KYC procedures that enable it to know the identity of each contributor.” Chair Miadich also has questions about the “obtains possession” timing in the regulation.

Commissioner Wood asked whether the window between contribution and receipt is different and if the cryptocurrency inflates in that time, would that trigger a contribution over the limit. Mr. Bainbridge described how the process would work.

Mr. Bainbridge discussed not wanting to use the term “received” since it is a term defined in the PRA elsewhere.

Galena West, Executive Director, stated the regulation could be written as “whichever is earlier,” so that it reads as obtains possession or converts so there is no interpretation and further discussion determined this change was not necessary as the current process addresses it.

Commissioner Baker asked if cryptocurrency is defined. Mr. Bainbridge stated cryptocurrency is not defined in the Act but that it is fairly known and doesn’t need a definition. Commissioner Baker asked how this will be reported. Mr. Bainbridge stated contributions will be reported as any other non-monetary contribution, which includes a description.

Commissioner Baker disclosed ex parte communications with Controller Yee about this regulation package.

MOTION: To adopt the regulation package with changes described by Chair Miadich. Moved by Chair Miadich, seconded by Commissioner Baker. The motion passed 4-0.

12. Prenotice Discussion of Proposed Amendments to Regulations 18960, Direct Personal Benefit; 18225.7, Made at the Behest; Independent versus Coordinated Expenditures; and 18728.5, Reporting of Commission Income and Incentive Compensation.

Karen Harrison, Senior Commission Counsel, discussed the pre-noticed regulation package.

13. Adoption of Proposed Regulatory Changes Regarding Requirements for Referrals and Public Information and Records Requests for Pending Enforcement Matters.

Toren Lewis, Commission Counsel, and Kevin Cornwall, Commission Counsel presented the regulation package.

Commissioner Wilson asked what kind of training materials exist for filing officers and suggested creating a checklist for completion. Mr. Bainbridge responded the Education Group provides training to filing officers and they’ll be updated on the requirements if this package passes.

Commissioner Baker discussed the best efforts portion of the regulation package regarding personal emails and addresses and whether professional emails and information be also included. Also, Commissioner Baker asked if the officials have given feedback that they would be less likely to send referrals because of these requirements. Mr. Lewis mentioned most filing officers are already working to gather the information requested in the regulation.

Commissioner Wood discussed the check list approach versus the mandatory field approach as her experience people who hit a roadblock in the mandatory field approach tend to walk away.

Mr. Cornwall stated paragraph (f) regarding requiring read receipts was left into the draft in error and should be removed from the package.

Commissioner Wilson asked why read receipts were being removed from the regulation. Mr. Cornwall stated read receipts can be circumvented and therefore not reliable.

Chair Miadich asked whether the it is current practice for the Enforcement Intake staff to use read receipts. Ms. Brereton said it is not the current practice but none of the Intake staff is opposed.

MOTION: To approve the regulation package without paragraph (f). Moved by Chair Miadich; seconded by Commissioner Baker. The motion passed 4-0.

15. Adoption of Proposed Regulation 18315.

Commissioner Baker recused herself out of an abundance of caution.

Mr. Bainbridge gave an overview of the regulation package.

Chair Miadich asked how a complaint under this regulation would be affected by the new media policy that was just adopted. Mr. Bainbridge stated this process isn't in the regulation but believes the intent is to follow to same process of an open investigation.

Commissioner Wilson asked at what stage would the Commissioner be informed that there's a complaint filed. Mr. Bainbridge stated upon referral to the Attorney General's office.

MOTION: To adopt the regulation package. Moved by Chair Miadich; seconded by Commissioner Wood. The motion passed 3-0, with Commissioner Baker recusing herself.

16. 2022/2023 Budget.

Loressa Hon, Chief of Administration gave an overview of the 2022/2023 budget.

17. Legislative Update.

Lindsey Nakano, Senior Legislative Counsel, gave an update on FPPC related legislation.

Commissioner Wilson asked about the amendments for the recurring contribution bill and if they would impact the original intent of the bill. Ms. Nakano stated staff has been working with the Author's office to amend the bill in a way that would not change the intent.

Commissioner Wood asked if there was an update on why the DATA Act is not moving forward. Ms. Nakano stated the bill died on suspense so there is not a clear reason why it will not move forward.

Commissioner Baker discussed AB 975 and whether the Commission should take a position on the portion of the bill that the Commission does not agree with. Chair Miadich reminded the Commission that a position hasn't been taken because Ms. Nakano was to speak with the Author's office on proposed amendments. Ms. Nakano responded she has been in touch with the Author's office and they are not open to changes at this time. Commissioner Baker discussed how this bill could be voted on before the next Commission meeting and would like to take an official position to support the first part and oppose the second part. Chair Miadich would like to wait until August unless Ms. Nakano states this is an urgent matter. Chair Miadich stated that the second half of the bill does not further the purposes of the Act. Commissioner Wood stated she does oppose the second half of the bill and would be willing to vote now. Commissioner Baker agreed. Commissioner Wilson states he thinks they should wait to take a position in case there are amendments. Ms. Nakano stated there is a challenge to oppose a portion of a bill and you're only given specific options in the legislative portal and a split stance is not an option.

18. Executive Staff Reports.

The Executive Staff Reports were accepted as submitted.

19. Commissioner Comments and Proposed Future Agenda Items.

Chair Miadich directed the Legal Division to bring back regulations addressing minor treasurers as soon as possible. Commissioner Baker asked for a discussion on how the Enforcement Division tracks statutes

of limitations during the December Enforcement update. Commissioner Baker would like an update on the effects of COVID-19 on the office.

MOTION: To Adjourn the meeting. Moved by Commissioner Wilson; seconded by Commissioner Baker. The motion passed 4-0.

The meeting adjourned at 2:23 p.m.

Respectfully Submitted,
Sasha Linker
Commission Assistant
Approved August 8, 2022

Richard C. Miadich, Chair
Fair Political Practices Commission