



(Unapproved and Subject to Change)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Thursday, January 18, 2024
10:00 a.m.

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

Staff Present: Galena West, Executive Director
James M. Lindsay, Chief of Enforcement
Dave Bainbridge, General Counsel
Shrdha Shah, Chief of Audits and Assistance
Jue Wang, Acting Chief of Administration
Zachary Norton, Senior Counsel
Lindsey Nakano, Senior FPPC Legislative Counsel
Sasha Linker, Commission Assistant

Call to Order.

Chair Miadich called the meeting to order at 10:07 a.m.

1. Public Comments for items not on the agenda.

2. Approval of Commission Meeting Minutes.

MOTION: To approve the November 2023 meeting minutes with edits provided by Commissioner Baker and Commissioner Wood. Moved by Chair Miadich, seconded by Commissioner Ortiz. The motion passed 5-0.

3-9. Consent Calendar.

Chair Miadich pulled item three for discussion, Commissioner Baker pulled item five for discussion, Commissioner Wilson pulled item six for discussion, and Commissioner Wood pulled item seven for discussion.

MOTION: To approve the consent calendar; items 4, 8, and 9. Moved by Chair Miadich; seconded by Commissioner Baker. The motion passed 5-0.

In discussing item three, Chair Miadich stated he supported the stipulation and believed the penalty amounts to be correct but questioned language in the stipulation regarding deliberate versus inadvertent and negligent. James Lindsay, Chief of Enforcement, stated there was a specific incident where the boxes

were scratched out on a form that caused a closer look and the committee did not fulfill those requests causing the deliberate language.

Commissioner Baker discussed that if there is a point that is intended to be made like negligence or deliberate it is better if that is zeroed in on rather than going back and forth on the language.

Commissioner Baker further asked if there was a point in which this case turned deliberate. Mr. Lindsay gave an overview of how “turned deliberate” is used after a sixty-day time frame because the contribution was required to be returned within 60 days and was not. Commissioner Baker gave caution to using ‘turned deliberate’ when action may be deliberate. Chair Miadich clarified that the language is pointing to a combination of the timeframe and the action of scratching out the boxes.

Commissioner Ortiz asked when intentional violation occurs versus a negligent violation and how the factors overlap. Mr. Lindsay stated intent is a state of mind that occurs when the violation occurs and that intent to conceal sometimes overlaps with showing intentional or deliberate behavior. Commissioner Ortiz asked if all three parties are liable: committee, candidate, and contributor, and who pays the fine. Mr. Lindsay stated in this matter, all three are listed as respondents and that who is responsible for paying is part of negotiations.

MOTION: To approve item 3. Moved by Char Miadich, seconded by Commissioner Wilson. The motion passed 5-0.

While discussing item five, Commissioner Baker stated she doesn’t reach the same conclusion that Santos was inadvertent and negligent based on the facts in the stipulation. Mr. Lindsay stated in count three, there was no evidence of intentionality. In count four, while there is evidence of intent, they did not worry about outlining the intent because the charge was for the maximum fine. Commissioner Baker stated she doesn’t reach the same conclusion on negligence and would like the stipulations to be more precise on when an action is negligent and when it’s intentional. Chair Miadich stated he thinks the fine amounts are correct but there is a disconnect because negligence and intent is not discussed when there is a max penalty amount. Commissioner Wood expressed that if Enforcement ever created a flow chart regarding levels of intent and negligence, she would love to have it to share with her students.

MOTION: To approve item 5. Moved by Chair Miadich, seconded by Commissioner Ortiz. The motion passed 5-0.

For item six, Commissioner Wilson asked for clarification on the conclusion that there was no intent to conceal since the information was not on the Form 700. Mr. Lindsay stated there was no evidence of an intent to violate the law shown through the lack of concealment and the general knowledge of her husband's employment. Commissioner Wilson further pointed out that this case was discussed by the Commission at a previous meeting and would appreciate that information being presented in the stipulation in the future.

Chair Miadich thanked Mr. Lindsay for bringing back a stipulation that closely reflects what the Commission asked for.

MOTION: To approve item 6. Moved by Chair Miadich, seconded by Commissioner Wilson. The motion passed 5-0.

In discussion for item seven, Commissioner Wood asked what advice the FPPC may have given to cannabis companies who want to give contributions, but they only have cash because of the nature of their business. Mr. Lindsay stated contributions cannot be accepted in cash over \$100. Dave Bainbridge, General Counsel, stated there is nothing within the Act that would permit cash contributions over \$100. Galena West, Executive Director, stated there are some California banking options for Cannabis organizations.

MOTION: To approve item 7. Moved by Chair Miadich; seconded by Commissioner Baker. The motion passed 5-0.

10. Discussion of Regulation 18537.1(c) Defining “Subsequent Election...”

Mr. Bainbridge discussed the comment letter received and stated it does not pertain to the section of the law being discussed today.

Zachary Norton, Senior Counsel, gave an overview of regulation 18537.1(c) Defining “Subsequent Election...”.

Chair Miadich discussed how much time and effort the previous Commission spent when adopting this regulation and believes the regulation should not be changed. Chair Miadich discussed the types of

materials used to convey this information to the public, including training manuals, and suggested using the regulatory language so that it is more granular.

Commissioner Baker disclosed ex parte communication with Chuck Bell on this matter. Commissioner Baker discussed the comment letter which listed specific materials where the language may be ambiguous. Mr. Bainbridge stated Legal Staff did take a look at the manuals for the language mentioned but could not find the examples that had been provided. Commissioner Baker stated she hopes the manuals are as specific as possible. She wanted to know what the difference was between “the subsequent election” and “a subsequent election.” General Counsel Bainbridge said “a” is less precise.

Commissioner Wilson discussed the upgrades to the targeted search function and how “a subsequent election” and “the subsequent election” would give much different results.

11. Fiscal Year 2023/2024 First Quarter Expenditure Report.

Jue Wang, Acting Chief of Administration, presented the expenditure report and discussed the additional funds received in the 2024/2025 budget that was released on January 10, 2024.

Chair Miadich asked if there were any cuts received in the 23/24 budget. Dr. Wang stated there was an increase from what was presented based on the general salary increases that were approved but there will be budget cuts on non-essential spending. Dr. Wang further stated the agency is moving forward business as usual until further information is received.

Commissioner Baker asked if there are positions that are affected by the budget cuts. Dr. Wang stated all positions are on track to be filled and there has not been information on a future hiring freeze.

12. Legislative Update.

Lindsey Nakano, Senior FPPC Legislative Counsel, gave an overview of the legislative deadlines, committee assignments, and PRA related bills.

Commissioner Wood asked what the ACLU’s position on AB 1170 and asked what would change. Ms. Nakano stated they did not take a position but expressed potential concerns. Ms. Nakano gave an overview of what would change if this bill became law.

Ms. Nakano discussed the Law and Policy Committee's discussion of AI and how to better disclosure of AI generated political advertisements. Commissioner Baker emphasized that the discussion was on disclosure. Chair Miadich stated wanting to authorize Ms. Nakano to be able to sit in discussions on AI and disclosure.

Commissioner Ortiz asked if the Commission has the authority to deal with misleading ads. Ms. Nakano stated the Commission has the authority to deal with disclosure.

Commissioner Wood stated she would be hesitant to support disclosures triggered by content veracity or banning of AI generated ads.

Chair Miadich asked Ms. Nakano if there was an update on the proposal to redact bank account numbers on certain forms. Ms. Nakano there should be a proposal presented in the coming weeks.

13. Executive Staff Reports.

The Executive Staff Reports were accepted as submitted.

Mr. Lindsay gave a presentation on the progress of the Enforcement Division policy directives.

Commissioners Ortiz and Wilson expressed concern about staff resources and discussed how the division can get more resources. Mr. Lindsay discussed current staffing and stated hiring continues to move forward.

Commissioner Wood asked whether case closures will get tougher as the division goes forward. Mr. Lindsay agreed with that statement but is confident staff can achieve the goal.

Commissioner Baker asked about the consistency of outcomes among the intake team and what has been done to gain consistency. Mr. Lindsay discussed the layers of review over the intake team and believes there is consistency among the intake team.

Commissioner Wilson asked if there are variables that come into play while in an election cycle. Mr. Lindsay stated resources would be given to gain compliance prior to the election in matters of high impact.

Chair Miadich asked whether the agency receives referrals for Section 84308. Mr. Lindsay stated those are coming in through complaint and referral numbers are mostly SEI non-filers and some campaign non-

filers. Chair Miadich further asked if there was anything that contributed to the spike in referrals. Mr. Lindsay believes its mostly education leading to more referrals.

Chair Miadich discussed the bolstering of the streamline program and asked why those numbers seem to also be going down along with the mainline numbers. Mr. Lindsay stated there has been internal discussion on setting goals for streamline and the trend the Chair points out has been noticed. Galena West, Executive Director, mentioned that 60 cases were diverted to the PREP unit so that case load was removed from the yearly statistics.

14. Commissioner Comments and Proposed Future Agenda Items.

MOTION: To Adjourn the meeting. Moved by Commissioner Ortiz; seconded by Commissioner Baker. The motion passed 5-0.

The meeting adjourned at 12:41 p.m.

Respectfully Submitted,
Sasha Linker
Commission Assistant
Approved March 11, 2024

Richard C. Miadich, Chair
Fair Political Practices Commission