



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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EXECUTIVE STAFF REPORTS

February 20, 2020 Commission Hearing

Contents

<u>ENFORCEMENT DIVISION</u>	2
<u>LEGAL DIVISION</u>	8
<u>ADMINISTRATION & TECHNOLOGY DIVISION</u>	12

I. ENFORCEMENT DIVISION

STAFF: GALENA WEST, CHIEF OF ENFORCEMENT

I. Overview

During the period of January 1, 2020 through January 31, 2020 the Enforcement Division received 100 complaints, opened 27 for investigation, and rejected 54. The Enforcement Division received 170 referrals during this time. The Enforcement Division closed a total of 110 cases including:

- 54 warning letters – advertisement violations (1), campaign violations (16), lobbying violations (2), statement of economic interests violations (34), and conflict of interest violations (1);
- 35 no action closure letters alleging - campaign violations (15), lobbying violations (4), and statement of economic interests violations (16);
- 1 advisory letter for a conflict of interest violation;
- 18 approved stipulations from the December and January Commission meetings; and
- 2 committees were administratively terminated.

The Division had 1,712 cases in various stages of resolution at the time of the January Monthly Report and currently has approximately 1,791 cases in various stages of resolution, including the 33 cases before the Commission as listed in the February Agenda.

II. Annual Statistics

On the next page, you will find a chart that details the annual statistics for enforcement complaints, referrals and cases. This chart includes the data from 2019, where Enforcement had a highly efficient and effective year, receiving almost 2,700 complaints and referrals and closing 1,031 cases with violations found. The information in the chart has been gathered from public reports, information from the defunct and inactive database, and data that has been converted into current form, so the numbers are close estimates in some instances.

	Year	2016	2017	2018	2019
1	Complaints Received	1,180	564	1,352	744
2	Referrals Received	350	1,616	1,529	1,950
3	Total Complaint and Referrals Received	1,530	2,180	2,881	2,694
4	Cases opened	1,315	1,480	1,561	1,820
5	Cases closed ³	1,803	1,477	1,243	1,465
6	Cases with resolutions approved by the Commission ¹	311	340	235	343
	a Streamline cases approved by Commission	234	262	173	263
	b Mainline cases approved by Commission	70	66	56	73
	c Default cases approved by Commission	7	12	6	7
7	Total fines imposed by the Commission	\$894,257	\$1,126,933	\$499,606	\$797,384
8	Warning letters issued	489	505	554	584
9	Administrative terminations	668	297	177	104
10	Cases closed with violations found ²	1,468	1,142	966	1,031
11	Advisory letters issued	14	17	20	9
12	No action closure letters	321	318	252	423

¹ Total for lines 6a, 6b, and 6c.

² Total for lines 6, 8, and 9.

³ Total cases closed includes Commission approved cases from the previous year and a Commission approved administrative judgement. It does not include Commission approved cases not yet closed.

III. Unexecuted Streamline Stipulations

Streamline penalty stipulations are approved by the Chief of Enforcement and reported to the Commission for discussion only before they are executed. The following streamline stipulations are presented for that purpose. After the close of the hearing, the Chief of Enforcement may execute all or any of the streamline penalty stipulations, at her discretion per Regulation 18360.2.

Advertisements

In the Matter of Josie Gonzalez for Coachella City Council 2018 and Josie Gonzalez; FPPC No. 19/140. Staff: Chief of Enforcement, Galena West and Political Reform Consultant, Chloe Hackert. Josie Gonzalez was a successful candidate for Coachella City Council in the November 6, 2018 General Election. Josie Gonzalez for Coachella City Council 2018 was her candidate-controlled committee. The Committee and Gonzalez failed to include the proper advertisement disclosures on a radio advertisement purchased by the Committee prior to the election, in violation of Government Code Section 84502 (1 count). **Total Proposed Penalty: \$130.**

In the Matter of Cypress Supports Schools - Committee for Measure M and Debra Parker; FPPC No. 19/1094. Staff: Galena West, Chief of Enforcement and Dominika Wojenska, Associate Governmental Program Analyst. Cypress Supports Schools - Committee for Measure M is a local primarily formed committee. Debra Parker is the Committee's treasurer. The Committee and Parker failed to include the proper advertisement disclosure on a mailer distributed prior to the November 6, 2018 General Election, in violation of Government Code Section 84502 (1 count). **Total Proposed Penalty: \$115.**

Campaign Late Filer

In the Matter of Friends of Gary Hardie, Jr. for Lynwood Schools 2015 and Gary Hardie, Jr.; FPPC No. 17/263. Staff: Ruth Yang, Commission Counsel and Roone Petersen, Special Investigator. The respondents were represented by Michael Zweiback of Zweiback, Fiset & Coleman, LLP. Gary Hardie, Jr. was a successful candidate for Lynwood Unified School District Board of Education in the November 3, 2015 General Election. Friends of Gary Hardie, Jr. for Lynwood Schools 2015 is his candidate-controlled committee. The Committee and Hardie failed to timely file three semiannual campaign statements, in violation of Government Code Section 84200 (3 counts) and two 24-Hour Reports, in violation of Government Code Section 84203 (2 counts). **Total Proposed Penalty: \$1,150.**

In the Matter of California Thoroughbred Breeders Association PAC, James Murphy, and Jason Sellnow; FPPC No. 19/871. Staff: Galena West, Chief of Enforcement and Shaina Elkin, Staff Services Analyst. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. The California Thoroughbred Breeders Association PAC is a state general purpose committee. James Murphy and Jason Sellnow were the Committee's treasurers at the time of these violations. The Committee, Murphy, and Sellnow failed to timely file an amendment to the Committee's statement of organization after changing treasurers, in violation of Government Code Section 84103 (1 count) and failed to timely file four 24-Hour Reports, in violation of Government Code Section 84203 (4 counts). **Total Proposed Penalty: \$1,150.**

In the Matter of Citizens for Dr. Tammie Calzadillas, MUHSD Board of Trustees, Area 1, 2018, Tammie Calzadillas, and Bernie Marks; FPPC No. 18/990. Staff: Theresa Gilbertson, Commission Counsel. Tammie Calzadillas was an unsuccessful candidate for Merced Union High School District Board of Trustees in the November 6, 2018 General Election. Dr. Tammie Calzadillas, MUHSD Board of Trustees, Area 1, 2018 was her candidate-controlled committee. Bernie Marks was the Committee's treasurer. The Committee, Calzadillas, and Marks failed to timely file two semiannual campaign statements, in violation of Government Code Section 84200 (2 counts); a pre-election campaign statement, in violation of Government Code Section 84200.5 (1 count); and two 24-Hour Reports, in violation of Government Code Section 84203 (2 counts). **Total Proposed Penalty: \$1,118.**

In the Matter of Ricardo Benitez for Assembly 2018 (Special Election) and Ricardo Benitez; FPPC No. 18/367. Staff: Galena West, Chief of Enforcement and Tara Stock, Intake Manager. Ricardo Benitez was a successful candidate for State Assembly in the April 3, 2018 Special Primary Election but was defeated in the June 5, 2018 Special General Election. Ricardo Benitez for Assembly 2018 (Special Election) was his candidate-controlled committee. The Committee and Benitez failed to timely file four pre-election campaign statements, in violation of Government Code Section 84200.5 (4 counts) and failed to timely file a 24-Hour Report, in violation of Government Code Section 84203 (1 count). **Total Proposed Penalty: \$1,108.**

In the Matter of 62nd Assembly District Republican Committee and Barbara Ford; FPPC No. 19/050. Staff: Galena West, Chief of Enforcement and Dominika Wojenska, Associate Governmental Program Analyst. 62nd Assembly District Republican Committee is a state general purpose committee. Barbara Ford is the Committee's treasurer. The Committee and Ford failed to timely file two semiannual campaign statements, in violation of Government Code Section 84200 (2 counts). **Total Proposed Penalty: \$438.**

In the Matter of Greg Coladonato for School Board 2014 and Greg Coladonato; FPPC No. 19/005. Staff: Galena West, Chief of Enforcement and Dominika Wojenska, Associate Governmental Program Analyst. Greg Coladonato was an unsuccessful candidate for Mountain View-Whisman School District Board in the November 6, 2018 General Election. Greg Coladonato for School Board 2014 is his candidate-controlled committee. The Committee and Coladonato failed to timely file two pre-election campaign statements, in violation of Government Code Section 84200.5 (2 counts). **Total Proposed Penalty: \$409.**

In the Matter of Public Water Now and Mary Elizabeth McCarthy; FPPC No. 19/1550. Staff: Galena West, Chief of Enforcement and Chloe Hackert, Political Reform Consultant. Public Water Now is a local general purpose committee. Mary Elizabeth McCarthy is the Committee's treasurer. The Committee and McCarthy failed to timely file a semiannual campaign statement, in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$251.**

In the Matter of Olsen for Grossmont-Cuyamaca Community College Board Trustee 2018 and John Olsen; FPPC No. 18/1261. Staff: Galena West, Chief of Enforcement and Tara Stock, Intake Manager. John Olsen was a successful candidate for Grossmont-Cuyamaca Community College Board in the June 5, 2018 Primary Election but was defeated in the November 6, 2018

General Election. Olsen for Grossmont-Cuyamaca Community College Board Trustee 2018 was his candidate-controlled committee. The Committee and Olsen failed to timely file a pre-election campaign statement, in violation of Government Code Section 84200.5 (1 count). **Total Proposed Penalty: \$207.**

Statement of Economic Interests Late Filer

In the Matter of Paul Greenway; FPPC No. 19/620. Staff: Galena West, Chief of Enforcement and Shaina Elkin, Staff Services Analyst. Paul Greenway, as an MNS Engineers, Inc. Consultant for the City of Monterey, failed to timely file a 2017 and 2018 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$400.**

In the Matter of Erick Serrato; FPPC No. 18/503. Staff: Galena West, Chief of Enforcement and Cheng Saetern, Assistant Political Reform Consultant. Erick Serrato, a Workforce Development Officer for the City of Long Beach, failed to timely file a 2017 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$400.**

In the Matter of Rosalyn Prickett; FPPC No. 18/710. Staff: Galena West, Chief of Enforcement and Cheng Saetern, Assistant Political Reform Consultant. Rosalyn Prickett, a Consultant for the City of Oceanside, failed to timely file a 2017 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$400.**

In the Matter of Jack Gerwick; FPPC No. 19/618. Staff: Galena West, Chief of Enforcement and Shaina Elkin, Staff Services Analyst. Jack Gerwick, an Engineering Consultant for the Department of Plans and Public Works for the City of Monterey, failed to timely file a 2017 and 2018 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (2 counts). **Total Proposed Penalty: \$400.**

In the Matter of Maria Luquin; FPPC No. 19/632. Staff: Galena West, Chief of Enforcement and Cheng Saetern, Assistant Political Reform Consultant. Maria Luquin, a Bilingual Immersion Coordinator for Lake Tahoe Unified School District, failed to timely file a 2018 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

In the Matter of Sherrell Freeman; FPPC No. 19/615. Staff: Galena West, Chief of Enforcement and Shaina Elkin, Staff Services Analyst. Sherrell Freeman, a Consultant for the City of Monterey, failed to timely file an Assuming Office Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

In the Matter of Robert Smith; FPPC No. 19/1435. Staff: Galena West, Chief of Enforcement and Shaina Elkin, Staff Services Analyst. Robert Smith, a Board Member for Bridgeville Elementary School District in Humboldt County, failed to timely file an Assuming Office

Statement of Economic Interests, in violation of Government Code Section 87300 (1 count).

Total Proposed Penalty: \$200.

In the Matter of Lorena Chavez; FPPC No. 19/1446. Staff: Galena West, Chief of Enforcement and Shaina Elkin, Staff Services Analyst. Lorena Chavez, a Board Member for the California Strawberry Commission, failed to timely file a 2018 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

In the Matter of Paul Tormey; FPPC No. 19/1368. Staff: Galena West, Chief of Enforcement and Tara Stock, Intake Manager. Paul Tormey, a Board Member for the California Travel and Tourism Commission (“Visit California”), failed to timely file an Assuming Office Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

In the Matter of Kandi Thompson; FPPC No. 19/797. Staff: Galena West, Chief of Enforcement and Cheng Saetern, Assistant Political Reform Consultant. Kandi Thompson, a District 1 Trustee/Board Clerk for Amador County Unified School District Governing Board, failed to timely file a 2017 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

In the Matter of Alana Cayabyab; FPPC No. 18/563. Staff: Galena West, Chief of Enforcement and Chloe Hackert, Political Reform Consultant. Alana Cayabyab, as an Assistant Principal with Lake Tahoe Unified School District, failed to timely file a 2017 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

Statement of Economic Interests Late Reporter

In the Matter of Juana Dement; FPPC No. 18/741. Staff: Galena West, Chief of Enforcement and Tara Stock, Intake Manager. Juana Dement, as a Tracy City Councilmember, failed to timely disclose her spouse’s source of income on her Candidate, Assuming Office, and 2017 Annual Statement of Economic Interests, in violation of Government Code Section 87207 (3 counts). **Proposed Penalty: \$300.**

In the Matter of Stephen Lam; FPPC No. 19/1600. Staff: Galena West, Chief of Enforcement, and Chloe Hackert, Political Reform Consultant. The respondent was represented by Joseph A. Guardarrama of Kaufman Legal Group. Stephen Lam, as a Monterey Park City Councilmember, failed to timely disclose a source of income on his 2015, 2016, and 2018 Annual Statements of Economic Interest, in violation of Government Code Section 87207 (3 counts). **Total Proposed Penalty: \$300.**

II. LEGAL DIVISION

STAFF: DAVID BAINBRIDGE, GENERAL COUNSEL

A. Pending Litigation

California State Association of Counties and California School Boards Association v. FPPC
Los Angeles County Superior Court, Central District, Case No. BS174653

On September 11, 2018, petitioners served a first amended petition for writ of mandate and complaint for declaratory relief. Petitioners allege that Regulations 18420.1 and 18901.1 are invalid as a matter of law, that the Commission has exceeded its jurisdiction in adopting these Regulations, and that the Regulations are unenforceable.

The Attorney General's Office is representing the Commission and timely filed an answer to the petition/complaint. On March 4, 2019, the Commission filed a Motion for Judgment on the Pleadings.

On March 29, 2019, the Commission's Motion for Judgment on the Pleadings was granted with leave to amend. The court vacated all hearing dates and set a new trial setting conference. Plaintiffs timely filed a Second Amended Complaint (SAC) on June 27, 2019.

The Commission filed a demurrer and the hearing occurred on November 22, 2019. In its ruling, the court: (1) sustained the demurrer to the first cause of action without leave to amend; (2) sustained the demurrer with leave to amend on plaintiff CSBA's standing on all cause of action and plaintiff CSAC's standing on all causes of actions challenging Regulation 18901.1; and (3) overruled the remaining grounds for demurrer. Plaintiffs must file a third amended complaint on or before February 20, 2020. Trial setting conference is scheduled for April 3, 2020.

Howard Jarvis Taxpayers Association, et al. v. Edmund Brown, et al.
Court of Appeal, Third Appellate District, Case No. C086334

On December 12, 2016, the Howard Jarvis Taxpayers Association and retired State Senator and Judge Quentin L. Kopp filed a lawsuit against Governor Brown and the Commission to invalidate a new law that would allow public funds to be used for political campaigning. In September of 2016, the Governor signed Senate Bill No. 1107 which authorizes the use of public funds to finance campaigns if a jurisdiction adopts a law or ordinance creating a public financing program. Plaintiffs alleged the new law improperly eliminates the prohibition against public financing of campaigns, implemented pursuant to Proposition 73 in 1988, because it was done without voter approval. In addition, plaintiffs alleged that the new law violates the Political Reform Act because it does not "further the purposes of the Act," an express requirement in the Act for legislative amendment.

The Superior Court issued a ruling, on August 23, 2017, declaring the amendments in Senate Bill No. 1107 to Government Code section 85300 void and of no legal effect, and issuing an injunction restraining the FPPC from enforcing those amendments. On August 26, 2019, the Court of Appeal affirmed the Superior Court's order invalidating SB 1107. The parties are discussing a settlement on plaintiffs' claims for attorney's fees and costs.

B. Outreach and Training

- Political Reform Consultant, Alexandra Castillo, presented a Candidate/Treasurer workshop for the City of Glendale on January 9th. 10 people attended.
- Staff Services Manager, Alana Jeydel, and Political Reform Consultant, Katie Trumbly, presented two workshops in Merced at the County of Merced Elections Office on January 10th. The first workshop was for Campaign Filing Officers, presented by Alana Jeydel. 20 people attended. The second workshop was for Candidates/Treasurers, presented by Katie Trumbly. 4 people attended.
- Political Reform Consultant, Katie Trumbly, presented a combination filing officer workshop in Salinas on January 17th. 40 people were in attendance.
- Staff Services Manager, Alana Jeydel, conducted a Form 700 filer workshop here at the FPPC on January 22nd. 4 people attended.
- Staff Services Manager, Alana Jeydel, and Political Reform Consultant, Katie Trumbly, presented two workshops in Irvine for the Transportation Corridor Agencies on January 24th. The first workshop for Form 700 Filers, was presented by Katie Trumbly. 20 people attended. The second workshop for Form 700 Filing Officers, was presented by Alana Jeydel. 6 people attended.
- Political Reform Consultant, Katie Trumbly, presented a Form 700 Filer training to the California Earthquake Authority in Sacramento, on January 29th. 15 people were in attendance in addition to people who participated via live streaming.
- Video Tutorials: Commission video tutorials were accessed a total of 516 times in January. Form 700 videos were accessed 319 times, the Candidate/Treasurer video was accessed 96 times, and the filing officer videos were accessed 101 times.

C. Advice

In January 2020, the Legal Division responded to the following requests for advice:

- **Education Program:** The Education Program responded to 1008 requests for technical assistance via phone and assisted 2 walk-ins.

- **Requests for Advice:** The Email Advice and Conflict of Interest Code Program and Legal Division attorneys collectively responded to more than 1224 e-mail and telephone requests for advice, 55 of which were not responded to within 24 hours.
- **Advice Letters:** The Legal Division received 14 advice letter requests under the Political Reform Act and completed 12.
- **Section 1090 Letters:** The Legal Division received two advice letter requests concerning Section 1090 and completed six letters.

D. Miscellaneous Decisions

None to report.

E. Potential Upcoming Regulations

March 19th, 2020

- **Recusal Process (Regulation §18707):** Amend the existing regulation to ensure an official prohibited from participating on an item at a public meeting due to a financial conflict of interest adequately identifies the interest requiring recusal on the record. (Prenotice discussion.)

April 16th, 2020

- **Minor and Technical Clean-Up Regulations.** (Prenotice discussion.)
- **Public Participation in Commission Meetings:** Provide rules and guidelines for participation by the public in Commission meetings. (Adoption.)
- **Limited Liability Companies:** New regulation requiring disclosure of individual(s) associated with Limited Liability Companies that make contributions. (Adoption.)
- **Over the Limit Contributions (Regulation 18531):** Amend the existing regulation to allow return of over the limit contributions that have been deposited in a campaign account within a certain period. (Adoption.)

May 21st, 2020

- **Recusal Process (Regulation §18707):** Amend the existing regulation to ensure an official prohibited from participating on an item at a public meeting due to a financial conflict of interest adequately identifies the interest requiring recusal on the record. (Adoption.)

F. Conflict of Interest Codes

Adoptions and Amendments

State Agency Conflict of Interest Codes

- CA Behavioral Health Planning Council
- CA Highspeed Rail Authority
- CA Transportation Commission
- Department of Insurance
- Mental Health Services Oversight and Accountability Commission

Multi-County Agency Conflict of Interest Codes

- ABAG (Association of Bay Area Governments)
- ABAG Finance Authority for Nonprofit Corporations
- ABAG Publicly Owned Energy Resources (POWER)
- Bay Area Clean Air Foundation
- CA Sanitation Risk Management Authority
- Metropolitan Transportation Commission
- Opportunities for Learning-Baldwin Park
- Opportunities for Learning-Capistrano
- Opportunities for Learning-William S. Hart
- Options for Youth-Acton
- Options for Youth-San Juan
- Options for Youth-Victor Valley
- Pacheco Water District
- Pacheco Pass Water District
- Pacific Charter Institute

Exemptions

- Lithium-Ion Car Battery Recycling Advisory Group

Extensions

- Independent Peer Review Group (High Speed Rail Authority)

G. Probable Cause Hearings

None to report.

III. ADMINISTRATION & TECHNOLOGY DIVISION

STAFF: LORESSA HON, CHIEF OF ADMINISTRATION

New Employee Report

Enforcement Division

Stephen Hernandez, Political Reform Consultant (PRC)