

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

April 11, 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 Sean Eskovitz and Lynn Montgomery, and were present. Commissioner Ronald Rotunda joined by Phone.

Chair Ravel began by introducing herself as the newly appointed Chair, as well as introduced Sean Eskovitz as the new Commissioner. She announced that the FPPC will have more frequent Interested Persons meetings and noted that it's important to have input from the regulated community as well as the public. Chair Ravel would also like to have Commission hearings throughout the state to help increase public involvement.

Chair Ravel asked that item 38 is moved up to allow the Executive Director and FPPC staff to introduce themselves and give an overview of the agency to the new Chair and Commissioner.

38. Executive Director's Report. Staff: Executive Director Roman Porter.

Roman Porter gave an overview of the agency as a whole and each Division Chief gave a brief overview of the functions of their division.

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.

Chair Ravel asked if anyone in the audience had comments on any items not on the agenda.

Lance Olson asked that item 31 be removed from the consent calendar.

PROPOSED CONSENT CALENDAR – ITEMS 2 THROUGH 33

Chair Ravel asked the Commissioners if they had any comments or questions on any of the items, and if there were any items they wanted removed from the consent calendar.

Commissioner Montgomery asked that items 7, 9, and 22 be removed from the consent calendar for clarification. After the Commissioner's questions were answered by the Chief of Enforcement, the items were moved back to the consent calendar.

Items 31, 33, and 34 were removed from the consent calendar.

PROPOSED CONSENT CALENDAR – ITEMS 2 THROUGH 34 (except Items 31, 33, & 34)

2. Approval of January 28, 2011 and February 10, 2011 Commission meeting minutes.

Campaign Reporting Violations

3. In the Matter of Tina Baca Del Rio and Friends of Tina Baca Del Rio, FPPC No. 08/423. Total Proposed Penalty: \$26,000.
4. In the Matter of Abel Maldonado, Abel Maldonado for Senate, Christopher J. Raymer, and Chris Steinbruner, FPPC No. 10/070. Total Proposed Penalty: \$28,000.
5. In the Matter of the Redwood City Chamber of Commerce FPPC No. 09/266. Total Proposed Penalty: \$3,000.
6. In the Matter of Arlie Ricasa, Arlie Ricasa 2008, and Kinde Durkee, FPPC No. 10/808. Total Proposed Penalty: \$2,000.

Campaign Reporting Violations – Streamline

7. In the Matter of Allen L. Barker; Allen L. Barker Candidate 28th Assembly District 2010; and Allen L. Barker, Treasurer, FPPC No. 10/663. Total Proposed Penalty: \$200.
8. In the Matter of Larry A. Bedard, FPPC No. 10/1059. Total Proposed Penalty: \$200.
9. In the Matter of The Campaign for Consumer Rights, FPPC No. 10/473. Total Proposed Penalty: \$600.
10. In the Matter of Bret Daniels; Citizens in Support of Bret Daniels; and Bret Daniels, Treasurer, FPPC No. 09/255. Total Proposed Penalty: \$200.
11. In the Matter of Committee to Elect Bob Epple, Robert Epple, Treasurer, FPPC No. 10/923. Total Proposed Penalty: \$400.
12. In the Matter of David Grant, South Orange County Community College District Trustee, and Committee to Elect David Grant Trustee 2010, FPPC No. 10/1087. Total Proposed Penalty: \$200.
13. In the Matter of Friends of Crystal Strait and Eddie Kirby, Treasurer, FPPC No. 10/342. Total Proposed Penalty: \$200.

14. In the Matter of United Democrats of Vallejo and John R. Lewis, Treasurer, FPPC No. 10/320. Total Proposed Penalty: \$200.

Conflict of Interest

15. In the Matter of Dan K. Waters, FPPC No. 10/485. Total Proposed Penalty: \$2,500.

Lobbying

16. In the Matter of Deloitte Consulting, LLP, No. 10/506. Total Proposed Penalty: \$8,000.
17. In the Matter of Santa Ynez Band of Chumash Indians, No. 10/607. Total Proposed Penalty: \$15,000.
18. In the Matter of Soboba Band of Luiseno Indians, No. 10/606. Total Proposed Penalty: \$14,000.
19. In the Matter of Tule River Indian Tribe, No. 10/608. Total Proposed Penalty: \$7,000.

Lobbying – Streamline

20. In the Matter of Downey Regional Medical Center, No. 11/092. Total Proposed Penalty: \$200.

Mass Mailing

21. In the Matter of Jerome Horton, Democrat Jerome Horton for Board of Equalization, Citizens to Elect Honest Officials, and Kinde Durkee, FPPC No. 08/286. Total Proposed Penalty: \$13,000.
22. In the Matter of Protect Burlingame and Kevin Osborne, FPPC No. 09/804. Total Proposed Penalty: \$2,500.

Money Laundering

23. In the Matter of James Larry Minor, No. 11/008. Total Proposed Penalty: \$60,000.

Statement of Economic Interests – Failure to File – Streamline

24. In the Matter of Jim Campbell, FPPC No. 10/1103. Total Proposed Penalty: \$600.
25. In the Matter of Kevin Cheng, FPPC No. 10/993. Total Proposed Penalty: \$200.
26. In the Matter of Leo Chow, FPPC No. 10/999. Total Proposed Penalty: \$200.

27. **In the Matter of Leslie Lohse, FPPC No. 10/1102. Total Proposed Penalty: \$600.**
28. **In the Matter of Luther Pugh, No. 11/015. Total Proposed Penalty: \$200.**
29. **In the Matter of Katie Townsend-Merino, No. 11/031. Total Proposed Penalty: \$200.**

Statement of Economic Interests – Non-Reporting

30. **In the Matter of Antonio Villaraigosa, No. 10/579. Total Proposed FPPC Penalty: \$21,000 (Total Proposed Penalty by Los Angeles City Ethics Commission: \$20,849, for a Combined Proposed Penalty: \$41,849)**

Statement of Economic Interests – Non-Reporting - Streamline

32. **In the Matter of Cheryl Miles, FPPC No. 10/271. Total Proposed Penalty: \$400.**

Commissioner Montgomery moved approval of the consent calendar, with the removal of items 31, 33, and 34.

The motion was seconded by Commissioner Eskovitz.

Ayes: Commissioners Eskovitz, Montgomery, Rotunda, and Chair Ravel
The motion passed 4 to 0.

ITEMS REMOVED FROM THE CONSENT CALENDAR

31. **In the Matter of Sean MacNeil, FPPC No. 09/645.** Staff: Chief of Enforcement Gary Winuk and Senior Investigator Leon Nurse Williams. Respondent Sean MacNeil, former Chief of Staff to California State Senator Pat Wiggins failed to disclose on his 2007 Annual Statement of Economic Interests \$2,000 in income he received from Friends of Pat Wiggins for State Senate 2010 campaign in March 2007 on his 2007 annual Statement of Economic Interests, in violation of Government Code section 87302 (1 count). **Total Proposed Penalty: \$4,000.**

Lance Olson, attorney for the respondent noted that the decision to accept a higher fine was not taken lightly. The decision was made after weighing the cost of the increased fine against the cost of an administrative proceeding.

Commissioner Rotunda moved to accept the stipulation of increasing the fine from \$2,000 to \$4,000.

The motion was seconded by Commissioner Eskovitz.

Ayes: Commissioners Eskovitz, Rotunda, and Chair Ravel
Nos: Commissioner Montgomery
The motion passed 3 to 1.

Consideration of Administrative Law Judge Proposed Decision

33. In the Matter of Raymond Haynes Jr., Mr. Raymond Horspool Jr., and Haynes for Assembly 2004, FPPC No. 09/258 OAH No. 2010100426. Staff: Chief of Enforcement Gary Winuk and Program Specialist Grant Beauchamp. Respondent Haynes was a member of the California State Assembly from 2002 through 2006. Respondent Haynes for Assembly 2004 was Respondent Haynes' candidate controlled campaign committee, and Respondent Horspool was the treasurer for Respondent Haynes for Assembly 2004. Following an administrative hearing in Sacramento, Administrative Law Judge Joann Eshelman issued a proposed decision finding that four violations occurred, and imposing an administrative penalty of \$10,000.

Raymond Haynes addressed the Commission and stated that he was under the impression his committee had been closed in December of 2007. Gary Winuk, Chief of Enforcement noted that over 30 notices were sent to Mr. Haynes since 2009, without response. Mr. Haynes stated that he was out of the country during the time the notices were sent and only contests the amount of the fine not the counts themselves. Enforcement considered the sophistication of the respondent, prior violations and the number of counts before reaching a fine amount.

Commissioner Rotunda agreed that the fine was high and moved to reduce it by half (\$5,000). Commissioner Eskovitz asked Mr. Hayes if he had made arrangements to receive notices while he was out of the country. Mr. Hayes had not made arrangements because he was under the impression his committee had been closed.

Chair Ravel proposed a substitute motion of reducing the fine to \$7,000 (\$4,000 on count 4 and \$1,000 each on counts 1 through 3).

The motion was seconded by Commissioner Rotunda.

Ayes: Commissioners Montgomery, Eskovitz, Rotunda, and Chair Ravel
The motion passed 4 to 0.

Motion to Vacate

34. Motion to Vacate Default Decision and Order, In the Matter of Tim Foley FPPC No. 10/117 Staff: Gary Winuk, Chief of Enforcement, Commission Counsel Bridgette Castillo. The Commission will consider a motion filed with the Commission by Respondent Foley to vacate the Commission's Default Decision and Order approved at the January 28, 2011 hearing.

Deborah Caplan requested that the Commission hold this item over for the next agenda due to the illness of counsel. The Commission agreed that the item should remain on the April agenda, as long as Ms. Caplan is comfortable with moving forward. She stated that she was able to proceed.

Ms. Caplan acknowledges that the deadline was missed and noted that the Commission denied a request at the January 2010 due to insufficient medical evidence. Ms. Caplan stated that there were several factors in addition to counsel's medical issue and that the respondent himself was not given adequate notice. She said that an attorney's mistake should not be visited upon the client. The Commission agreed that the Enforcement Division gave adequate notice to the respondent and his counsel.

Chair Ravel moved to reject the motion to vacate.

The motion was seconded by Commissioner Eskovitz.

Ayes: Commissioners Eskovitz, Rotunda, and Chair Ravel

Nos: Commissioner Montgomery

The motion passed 3 to 1.

35. Regulatory Review. Staff: Roman G. Porter, Executive Director. The Executive Director will seek direction from the Commission as to which specific regulations or areas of regulations the Commission would like examined for potential elimination or amendment, with the goal of increasing clarity and compliance with the Commission's regulations. Efforts to solicit input from members of the public and regulated community as to how the Commission can increase clarity through a regulatory review will also be discussed.

The Commission agreed to review regulations for amendments or potential elimination.

36. Legislative Report. Staff: Legislative Coordinator Tara Stock.

As submitted.

37. Litigation Report. Staff: General Counsel Scott Hallabrin.

Scott Hallabrin reminded the Commission that he is a retired annuitant and is limited in the amount of hours he can work each month. He announced that this would be his last meeting as General Counsel. He noted that he would continue to support the agency and the legal division in a role that is more suitable given his limited time.

Chair Ravel recessed public session at 11:45 AM and advised the Commission would immediately reconvene in executive session.

The Commission reconvened in public session at 12:30 PM. Chair Ravel adjourned the meeting.

Respectfully Submitted,

Dated:

Adrienne Tackley
Commission Assistant

Approved: _____
Ann Ravel, Chair
Fair Political Practices Commission