



(Approved January 18, 2018)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Timestamps from [Commission Meeting 12/21/2017](#)
Thursday, December 21, 2017

Under Government Code section 11123(a), all meetings of a state body are open and public, and all persons are permitted to attend any meeting of a state body, except as otherwise provided in that article. The section further states that the portion of the teleconferenced meeting that is required to be open to the public must be audible to the public at the location specified in the notice of the meeting. The Commission may take action on any item listed on this agenda.

CALL TO ORDER

Chair Remke called the meeting to order at 10:01 am on December 21, 2017, at the Fair Political Practices Commission, 1102 Q Street, Suite 3800, Sacramento, CA 95811. Chair Remke and Commissioners Hatch and Hayward were present.

Welcome

Chair Remke: Okay. Good morning one take roll please, Sasha. Okay, just to note that if anyone's listening and trying to watch the livestream, we are unable to livestream today, but the phone line is working for the call-in. So, I'm assuming, hopefully, people have figured that out and are listening now. And then, I just wanted to also take a moment to point out some new developments we've had regarding our top ten list that have been pretty positive and exciting, from my point of view, which, thanks to Phil and Trish. They looked at the data on our top 10 list regarding ballot measures for 2014 and 2016 and did some analysis about what's happening in some trends and we've posted that on our website. So, when that's back up and running, hopefully you'll get a chance to take a look at it and the data visualization that's been added. But in light of the upcoming election and all the money we know that will be pouring in on new ballot measures, I think it's really an interesting thing to look at and take a moment to study which, number one, which I keep trying to stress, is that the top 10 list on ballot measures does show where 85% of all money going to ballot measures come from. And that's pretty significant that's both 2014 and 2016. It also shows an interesting trend regarding money from out of state in 2014 I think it was about 7% of the money came from out of state. 2016, that number jumped to almost 30%. This is on our California ballot measures. So again, there's some interesting information there I think it's worth a look I mean we take all the time and effort to collect this information and we're trying to push out some really use a usable helpful information that comes out of it so thank you Phil and Trish and thank you IT for working with them to get that up. Okay. So, public comment.

Public Comment

- 1. Public Comment for Items not on Agenda.** During this comment period, any person is invited to speak on any topic that is not listed on this agenda. Action may not be taken on any matter raised during this public comment period until the matter is specifically listed on a future agenda. Those who wish to comment on an item that has been listed on this agenda may comment when that item has been opened for consideration by the Commission and before any action is taken.

Chair Remke: Any public comment for an item that is not on the agenda today? Okay hearing or seeing none, first item is approval of the Commission minutes from November.

Approval of Commission Minutes

- 2. Approval of November 2017 Commission Hearing Minutes.**

Chair Remke: Any corrections or comments from the Commissioners? Is there a motion?

Commissioner Hayward: I'll move it if you'll second it.

Commissioner Hatch: I second.

Ayes: Commissioners Hatch, Hayward, and Chair Remke.
The motion passed 3-0.

Consent Calendar 3-34

Chair Remke: okay next we'll move to the enforcement consent calendar items 3 through 34 do the Commissioners have any items they'd like to pull from consent

Commissioner Hatch: I have some. I'm sorry. What was the other term you use where you just want to talk about them but not you don't need to pull them.

Chair Remke: You don't need to pull them. I'll just ask you if there are any questions when we come.

Commissioner Hatch: Okay.

Chair Remke: Is there anything that you need to pull because you want a separate vote on, is really the issue here. Or because you need to abstain from the vote or otherwise recuse yourself.

Commissioner Hatch: Okay.

Chair Remke: No? Okay.

Galena West, Chief of Enforcement: Hello. I'm Galena West, Enforcement Chief. We are pulling number five. As of five minutes ago, we have reached a settlement and that will be presented to you hopefully at the February meeting. So...

Chair Remke: Okay. Thank you for those ongoing efforts. Do you want to talk about it at all anymore? Just tell me because I'm..., again, so now we still have this pending default, which I don't want to lose sight of, because I was prepared to vote for the default, but so you've reached a settlement. Is it signed? Are we going to come back with...?

Galena West: The settlement is signed and hopefully we will come back with full payment in February.

Chair Remke: Okay and if we don't have that by February, I would hope that we'd be right back here looking at an \$18,500...

Galena West: We'll be presenting the default in March if the February settlement is not presented.

Chair Remke: Okay.

Commissioner Hatch: Finally opened her mail?

Chair Remke: Okay. Thank you for that. So, number five is pulled and then we'll start with any remaining questions from the Commissioners regarding the consent calendar. Do you want to start, Commissioner Hatch?

4:53 Commissioner Hatch: Thank you. I have questions, comments, it's common to all of them: 6, 7, 10, 11, and 13.

Chair Remke: Let's start with 6. Go ahead.

Commissioner Hatch: Okay. It comes... all of these are not, well some of them are streamlined as it turns out, most of them are not streamlined, and this is kind of like an (inaudible) for me so I just, is a group, let me just note that the fines for missing semi-annual or other reports is generally 2500. The 24-hour reports are aggregated into one charge and wholesaled at \$2,000. I mentioned a number of times before that I think missing 24-hour reports are much more important than these annual or semiannual reports. I'm not going to ask that they be pulled off and renegotiated but each one of these has the same thing in common. All of them, even though they're not on the same date, due on the same date, they're all treated as one count and then discounted. And, I would like in the future to see them, just as in the in the streamline settlement, they're treated separately and fined separately I would like to see that happen and I think their fine should be is higher than you know semiannual or annual.

Galena West: Okay. Galena West. Can I ask for clarification on one issue? Do you feel that about the entire 90-day period for reporting in 24-hours or do you only feel about it as strongly about the last 16 days where it's not reported before the election?

Commissioner Hatch: Yes, most important to me is that period after the final pre-election reports. If it's in their pre-election report obviously the 24-hour thing is sort of meaningless, really, but that's what I'm focused on.

Galena West: Okay. Thank you.

Chair Remke: Any other comments on item 6 from you, Commissioner Hatch?

Commissioner Hatch: No. That's it. Thank you.

Chair Remke: Commissioner Hayward.

Commissioner Hayward: I think, just to reflect on how I look at the 24-hour reports, I think that the 90-day period, especially when you're talking about special districts and smaller local governments, is really very inclusive and can really be a trap for amateurs in the unwary. So, I agree with Commissioner Hatch that that last period is really, I think, where the rubber hits the road, because otherwise, you're not going to have disclosure before the election and that's where people are going to be trying to gain the system and avoid disclosure. So, but I, you know, so in addition to looking at proximity to the election, I think also looking at the relative size and sophistication of the committees that issue is important because, you know, we have this sort of one-size-fits-all statute and we regulate a variety of entities, you know better than me. So, that's all I would add. Thanks.

Commissioner Hatch: And that goes for the other ones as well. So, I have nothing further.

Chair Remke: So, nothing further on...

Commissioner Hatch: (Overlapping) on those other...

Chair Remke: On consent? Okay. So, that was kind of an overall statement. Okay. Commissioner Hayward, any questions for you on the consent calendar?

Commissioner Hayward: None. Thank you.

Chair Remke: Okay. Any public comment on the consent calendar? Okay. Seeing or hearing none, is there a motion?

Commissioner Hatch: I move.

Chair Remke: So, items 3 through 34, minus 6.

Commissioner Hayward: I'll second.

Chair Remke: (Overlapping) No. I'm sorry. Minus 5.

Commissioner Hayward: As corrected, I second.

Ayes: Commissioners Hatch, Hayward, and Chair Remke.
The motion passed 3-0.

Galena West: Thank you very much.

Chair Remke: Thank you.

Personal Use of Campaign Funds

- 3. In the Matter of David Guzzetti; FPPC No. 16/154.** Staff: Senior Commission Counsel Neal Bucknell and Program Specialist Soni Mangat. David Guzzetti was the treasurer and Co-Chair of Chico Conservation Voters. On approximately 148 occasions from August 2012 through January 2015, Guzzetti used committee campaign funds totaling approximately \$11,917 for personal purposes, which were unrelated to any political, legislative, or governmental purpose, in violation of Government Code Section 89512.5 (5 counts). **Total Proposed Penalty: \$24,000.**

Lobbying Reporting

- 4. In the Matter of Sutter Health; FPPC No. 16/723.** Staff: Assistant Chief Dave Bainbridge and Political Reform Consultant Chloe Hackert. Sutter Health, a lobbyist employer, failed to timely file nine lobbyist employer reports in violation of Government Code Section 86117 (9 counts). **Total Proposed Penalty: \$18,000.**

Campaign Reporting

- 5. In the Matter of Pam Bertani for Solano County Supervisor 2014 and Pam Bertani; FPPC No. 14/1112 (Default Decision).** Staff: Senior Commission Counsel Bridgette Castillo, Special Investigator Kelli Gould, and Staff Services Analyst Dominika Wojenska. Pam Bertani was a successful candidate for Solano County Board of Supervisors in the June 3, 2014 Primary Election and an unsuccessful candidate in the November 4, 2014 General Election. Bertani has been a member of the Fairfield City Council since 2011. Pam Bertani for Solano County Supervisor 2014 was her candidate-controlled committee. The Committee and Bertani failed to timely disclose contributions, expenditures, and contributor information on two pre-election and one semiannual campaign statements for the reporting periods of January 1, 2014 through June 30, 2014, in violation of Government Code Section 84211, subdivisions (a)-(f) (3 counts); and failed to timely file three 24-Hour Reports, in violation of Government Code Sections 84203 and 84203.3 (3 counts). **Total Proposed Penalty: \$18,500.**

- 6. In the Matter of Elk Grove Education Association Political Action Committee, Kathleen Tijan, Lee Ramaley, and Jeremy Roberts; FPPC No. 16/19974.** Staff: Commission Counsel Christopher Burton and Program Specialist Luz Bonetti. The Elk Grove Education Association Political Action Committee is a county general purpose committee sponsored by the Elk Grove Education Association. At all relevant times, Lee Ramaley and Kathleen Tijan were the Committee's principal officers; and Lee Ramaley and Jeremy Roberts were the Committee's treasurers. The Committee, Tijan, Ramaley, and Roberts failed to timely file two semiannual campaign statements covering the reporting period of July 1, 2015 through June 30, 2016, in violation of Government Code Section 84200 (1 count); failed to timely file one pre-election campaign statement covering July 1, 2016 through September 24, 2016, in violation of Government Code Sections 84200.5 and 84200.8 (1 count); failed to timely report contributions on two campaign statements, in violation of Government Code Section 84211 (2 counts); and failed to timely file 24-Hour Reports for six different late contributions, in violation of Government Code Section 84203 (1 count). **Total Proposed Penalty: \$11,500.**
- 7. In the Matter of Bacon for Fremont City Council 2016 and Vinnie Bacon; FPPC No. 16/19928 (Streamline Settlement).** Staff: Commission Counsel Christopher Burton and Special Investigator Garrett Micheels. Vinnie Bacon was a successful candidate for the Fremont City Council in the November 8, 2016 General Election. Bacon for Fremont City Council 2016 is Bacon's candidate-controlled committee. The Committee and Bacon failed to timely file five 24-Hour Reports, in violation of Government Code Section 84203 (5 counts); failed to timely file one semiannual campaign statement covering the reporting period of January 1, 2016 through June 30, 2016, in violation of Government Code Section 84200 (1 count); and failed to timely report non monetary contributions on the Committee's campaign statements covering the reporting periods of January 1, 2016 through December 31, 2016, in violation of Government Code Section 84211 (3 counts). **Total Proposed Penalty: \$2,381.**
- 8. In the Matter of Lily Mei for Fremont Mayor 2016, Lily Mei, and Nisha Dalal; FPPC No. 17/1030 (Streamline Settlement).** Staff: Commission Counsel Christopher Burton and Special Investigator Garrett Micheels. Lily Mei was a successful candidate for Mayor of the City of Fremont in the November 8, 2016 General Election. Lily Mei for Fremont Mayor 2016 is her candidate-controlled committee. Nisha Dalal is the Committee's treasurer. The Committee, Mei, and Dalal failed to timely file two 24-Hour Reports, in violation of Government Code Section 84203 (2 counts); and failed to timely report non-monetary contributions on two campaign statements covering the reporting periods of January 1, 2016 through December 31, 2016, in violation of Government Code Section 84211 (3 counts). **Total Proposed Penalty: \$1,406.**
- 9. In the Matter of Cullen Tiernan for Fremont City Council 2016 and Cullen Tiernan; FPPC No. 17/1031 (Streamline Settlement).** Staff: Commission Counsel Christopher Burton and Special Investigator Garrett Micheels. Cullen Tiernan was an unsuccessful candidate for the Fremont City Council in the November 8, 2016 General

Election. Cullen Tiernan for Fremont City Council 2016 is Tiernan's candidate-controlled committee. The Committee and Tiernan failed to timely file two 24-Hour Reports, in violation of Government Code Section 84203 (2 counts); and failed to timely report non monetary contributions on the Committee's campaign statements covering the reporting periods of January 1, 2016 through December 31, 2016, in violation of Government Code Section 84211 (3 counts). **Total Proposed Penalty: \$1,177.**

Campaign Non-Filer

10. In the Matter of Humboldt Deputy Sheriff's Organization PAC, Leslie S. Borges, and Scott N. Hicks; FPPC No. 15/1966. Staff: Commission Counsel Christopher Burton and Program Specialist Bob Perna. The Humboldt Deputy Sheriff's Organization PAC is a county general purpose committee sponsored by the Humboldt Deputy Sheriff's Organization. At all relevant times, Leslie S. Borges was the Committee's treasurer and, Respondents contend, Scott N. Hicks was the responsible officer. The Committee, Borges, and Hicks failed to timely file nine semiannual campaign statements covering the reporting periods of July 1, 2012 through December 31, 2013 and May 18, 2014 through December 31, 2015, in violation of Government Code Section 84200, subdivision (a) (4 counts); two pre-election campaign statements covering the reporting periods of January 1, 2014 through May 17, 2014, in violation of Government Code Sections 84200.5, subdivisions (a) and (e), 84200.7 (1 count); one pre-election campaign statement covering the reporting period of April 24, 2016 through May 21, 2016, in violation of Government Code Sections 84200.5, subdivisions (a) and 84200.8, subdivision (b) (1 count); and one 24-Hour Report for four late contributions, in violation of Government Code Section 84203 (1 count). **Total Proposed Penalty: \$17,500.**

11. In the Matter of Ken Seaton for National City Council 2014, Ken Seaton-Msemaji, and Samantha Ollinger; FPPC No. 15/249. Staff: Commission Counsel Theresa Gilbertson and Special Investigator Roone Petersen. Ken Seaton-Msemaji was an unsuccessful candidate for City Council in National City in the November 4, 2014 General Election. Ken Seaton for National City Council 2014 is his candidate-controlled committee. Samantha Ollinger was the Committee's treasurer. The Committee, Seaton-Msemaji, and Ollinger failed to timely file one pre-election statement covering the reporting period of October 1, 2014 through October 18, 2014, in violation of Government Code Sections 84200.7 and 84200.5 (1 count); one semiannual campaign statement covering the reporting period of October 19, 2014 through December 31, 2014, in violation of Government Code Section 84200 (1 count); and ten 24-Hour Reports, in violation of Government Code Section 84203 (1 count). **Total Proposed Penalty: \$5,000.**

12. In the Matter of We Are California, A Sponsored Committee of Mobilize the Immigrant Vote Action Fund and Aparna Shah; FPPC No. 16/189. Staff Commission Counsel Michael W. Hamilton and Program Specialist Bob Perna. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. We Are California, A Sponsored Committee of Mobilize the Immigrant Vote Action Fund is

a state general purpose committee. Aparna Shah is the Committee's treasurer. The Committee and Shah failed to timely file two semiannual campaign statements covering the reporting periods of October 21, 2012 through December 31, 2012 and July 1, 2014 through December 31, 2014, in violation of Government Code Section 84200 (2 counts). **Total Proposed Penalty: \$5,000.**

- 13. In the Matter of Sebastian Ridley-Thomas and Sebastian Ridley-Thomas for Assembly 2014; FPPC No. 16/458.** Staff: Senior Commission Counsel Neal Bucknell and Program Specialist Bob Perna. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. Sebastian Ridley-Thomas was a successful candidate in the Special Primary Election on December 3, 2013 to fill a vacancy in the California State Assembly, 54th District. Ridley-Thomas was also a successful incumbent candidate in the November 4, 2014 General Election. Sebastian Ridley-Thomas for Assembly 2014 was his candidate-controlled committee. The Committee and Ridley-Thomas failed to timely file two \$5,000 Reports, in violation of Government Code Section 85309, subdivision (c) (1 count); and failed to timely file four 24-Hour Reports, in violation of Government Code Sections 84203 and 85309, subdivision (a) (1 count). **Total Proposed Penalty: \$3,500.**
- 14. In the Matter of Frank Guzman and 2011 Committee to Elect Frank Guzman to PUSD Governing Board Member, a.k.a. Committee to Elect Frank Guzman to Pomona USA School Board 2011; FPPC No. 15/625 (Streamline Settlement).** Staff: Assistant Chief of Enforcement Dave Bainbridge and Staff Services Analyst Dominika Wojenska. Frank Guzman has been a member of the Pomona Unified School District Board since 2011. 2011 Committee to Elect Frank Guzman to PUSD Governing Board Member was his candidate-controlled committee. The Committee and Guzman failed to timely file three semiannual campaign statements covering the reporting periods of January 1, 2014 through December 31, 2014, and July 1, 2015 through December 31, 2015, in violation of Government Code Section 84200 (3 counts). **Total Proposed Penalty: \$3,000.**
- 15. In the Matter of Weinberger for Judge 2014, Joseph B. Weinberger, and Shawnda Deane; FPPC No. 17/940 (Streamline Settlement).** Staff: Commission Counsel Christopher Burton and Program Specialist Grant Beauchamp. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. Joseph B. Weinberger was an unsuccessful candidate for Superior Court Judge, El Dorado County, in the Primary Election held on June 3, 2014. Weinberger for Judge 2014 was Weinberger's candidate-controlled committee. Shawnda Deane was the Committee's treasurer. The Committee, Weinberger, and Deane failed to timely file one semiannual campaign statement covering July 1, 2013 through December 31, 2013, in violation of Government Code Section 84200 (1 count); one pre-election campaign statement covering the reporting period of January 1, 2014 through March 17, 2014, in violation of Government Code Section 84200.5 (1 count); and six 24-Hour Reports, in violation of Government Code Section 84203 (6 counts). **Total Proposed Penalty: \$2,029.**

- 16. In the Matter of Upland Parents Against Drugs, Jackie L. Nutting, and Bruce Nutting; FPPC No. 15/1553 (Streamline Settlement).** Staff: Commission Counsel Christopher Burton and Special Investigator George Aradi. Upland Parents Against Drugs was a local primarily-formed ballot measure committee that supported Measure U on the November 8, 2016 General Election San Bernardino County ballot. Jackie L. Nutting was the Committee's treasurer and Bruce Nutting was the principal officer. The Committee and the Nuttings failed to timely file two semiannual campaign statements covering the reporting periods of January 1, 2015 through June 30, 2015 and October 1, 2015 through December 31, 2015, in violation of Government Code Section 84200 (2 counts); and failed to timely file two pre-election campaign statements covering the reporting periods of July 1, 2016 through October 22, 2016, in violation of Government Code Section 84200.5 (2 counts). **Total Proposed Penalty: \$1,664.**
- 17. In the Matter of Committee to Elect Nancy Carroll Treasurer 2014, Committee to Elect Nancy Carroll 2016, and Nancy Carroll; FPPC No. 16/20118 (Streamline Settlement).** Staff: Chief of Enforcement Galena West, Political Reform Consultant Chloe Hackert, and Special Investigator Marshall Miller. Nancy Carroll was a successful candidate in the November 4, 2014 General Election for City Treasurer of Beaumont. Committee to Elect Nancy Carroll Treasurer 2014 was her candidate-controlled committee. The 2014 Committee and Carroll failed to timely file one pre-election campaign statement covering the reporting period of October 1, 2014 through October 18, 2014, in violation of Government Code Section 84200.5 (1 count); and two semi-annual campaign statements covering the reporting periods of January 1, 2015 through December 31, 2015, in violation of Government Code Section 84200 (2 counts). Nancy Carroll was a successful candidate for Beaumont City Council in the November 8, 2016 General Election. Committee to Elect Nancy Carroll 2016 is her candidate-controlled committee. The 2016 Committee and Carroll failed to timely file one pre-election campaign statement covering the reporting period of July 1, 2016 through September 24, 2016 in violation of Government Code Section 84200.5 (1 count); and two 24-Hour Reports, in violation of Government Code Sections 84203 (2 counts). **Total Proposed Penalty: \$1,244.**
- 18. In the Matter of Kings Canyon Teachers Association Committee for Excellence in Education, Dale H. Kennedy, Janie Chiasson, and Janet Hayhurst; FPPC No. 17/388 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Staff Services Analyst Hayley Porter. Kings Canyon Teachers Association Committee for Excellence in Education is a local general purpose committee. Janet Hayhurst and Janie Chiasson were the committee's treasurers at relevant times. Dale H. Kennedy is the Assistant Treasurer. The Committee, Hayhurst, Chiasson, and Kennedy failed to timely file five semiannual campaign statements covering the reporting periods of October 18, 2014 through June 30, 2015, and January 1, 2016 through June 30, 2017, in violation of Government Code Section 84200 (5 counts). **Total Proposed Penalty: \$1,046.**
- 19. In the Matter of Yes on BB, Bike East Bay Political Action Committee Sponsored by East Bay Bicycle Coalition and Renee Rivera; FPPC No. 16/404 (Streamline**

Settlement). Staff: Assistant Chief of Enforcement Dave Bainbridge and Special Investigator Paul Rasey. Yes on BB, Bike East Bay Political Action Committee Sponsored by East Bay Bicycle Coalition was a primarily formed recipient committee that supported Measure BB on the November 4, 2014 General Election ballot in Alameda County. Renee Rivera was the Committee's treasurer. The Committee and Rivera failed to timely file one pre-election statement for the reporting period of January 1, 2014 through October 18, 2014, in violation of Government Code Section 84200.5 (1 count); one semiannual campaign statement for the reporting period of October 19 through December 31, 2014, in violation of Government Code Section 84200 (1 count); and one 24-Hour Report, in violation of Government Code Section 84203 (1 count). **Total Proposed Penalty: \$766.**

20. In the Matter of Phillip Tabera for Salinas Union High School District Board 2013, Phillip Tabera, and Mario Aguiar; FPPC No. 17/761 (Streamline Settlement). Staff: Chief of Enforcement Galena West and Staff Services Analyst Dominika Wojenska. Philip Tabera was a successful candidate for the Salinas Union High School District Board in the November 5, 2013 General Election. Phillip Tabera for Salinas Union High School District Board 2013 is his candidate-controlled committee. Mario Aguiar is the Committee's treasurer. The Committee, Tabera, and Aguiar failed to timely file three 24-Hour Reports, in violation of Government Code Section 84203 (3 counts). **Total Proposed Penalty: \$675.**

21. In the Matter of Raul Cantu for Council 2012, Raul Cantu, and Marci Cantu; FPPC No. 17/560 (Streamline Settlement). Staff: Chief of Enforcement Galena West and Staff Services Analyst Dominika Wojenska. Raul Cantu was a successful candidate for Sanger City Council in the November 6, 2012 General Election, and an unsuccessful candidate for the Mayor of Sanger in the November 8, 2016 General Election. Raul Cantu for Council 2012 is his candidate-controlled committee. Marci Cantu is the Committee's treasurer. The Committee, Raul Cantu, and Marci Cantu failed to timely file two pre-election campaign statements covering the reporting periods of July 1, 2016 through October 22, 2016, in violation of Government Code Section 84200.5 (2 counts) and one 24-Hour Report, in violation of Government Code Section 84203 (1 count). **Total Proposed Penalty: \$662.**

22. In the Matter of Committee to Elect Bill Newberry for Corona-Norco Unified School Board 2010, Bill Newberry, and Christopher Riley; FPPC No. 16/325 (Streamline Settlement). Staff: Chief of Enforcement Galena West and Staff Services Analyst Dominika Wojenska. Bill Newberry was a successful candidate for the Corona-Norco Unified School District Board in the November 2, 2010 General Election. Committee to Elect Bill Newberry for Corona-Norco Unified School Board 2010 is his candidate-controlled committee. Christopher Riley was the Committee's treasurer. The Committee, Newberry, and Riley failed to timely file one semiannual campaign statement for the reporting period of July 1, 2014 through December 31, 2014, in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$409.**

- 23. In the Matter of Committee to Improve Delhi Schools – Yes on E and Diana King; FPPC No. 15/1886 (Streamline Settlement).** Staff Commission Counsel Ruth Yang and Special Investigator Roone Petersen. Committee to Improve Delhi Schools – Yes on E was a local primarily formed ballot measure committee in support of Measure E on the November 6, 2012 General Election ballot in Merced County. Diana King was the Committee’s treasurer. The Committee and King failed to timely file one semiannual campaign statement for the period covering October 21, 2012 through December 31, 2012, in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$299.**
- 24. In the Matter of Committee to Elect Aidee Farias for SRUSD Board Member 2015, Aidee Farias, and Diego Sandoval; FPPC No. 17/1012 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. Aidee Farias was an unsuccessful candidate for Board Member of the Santa Rita Union School District in the November 3, 2015 General Election. Committee to Elect Aidee Farias for SRUSD Board Member 2015 was her candidate-controlled committee. Diego Sandoval was the Committee’s treasurer. The Committee, Farias, and Sandoval failed to timely file one semiannual campaign statement for the reporting period of October 18, 2015 through December 31, 2015, in violation of Government Code Section 84200 (1 count). **Total Proposed Penalty: \$234.**

Campaign Non-Reporter

- 25. In the Matter of Mayor Christopher Cabaldon Committee, Christopher Cabaldon, and Lanz Nalagan; FPPC No. 16/19876 (Streamline Settlement).** Staff: Commission Counsel Theresa Gilbertson and Special Investigator Jay Martin. Christopher Cabaldon was a successful candidate for Mayor of West Sacramento in the November 8, 2016 General Election. Mayor Christopher Cabaldon Committee is his candidate-controlled committee. Lanz Nalagan is the Committee’s treasurer. The Committee, Cabaldon, and Nalagan failed to timely disclose expenditures and independent expenditures on three campaign statements covering the period of July 1, 2016 to December 31, 2016, in violation of Government Code Section 84211 (3 counts). **Total Proposed Penalty: \$656.**

Campaign Bank Account

- 26. In the Matter of Friends of Frank Bigelow for Assembly 2016, Frank Bigelow, and Vona L. Copp; FPPC No. 17/79.** Staff: Commission Counsel Christopher Burton and Special Investigator Roone Petersen. Frank Bigelow was a successful incumbent candidate for the California State Assembly, District 5 in the November 8, 2016 General Election. Friends of Frank Bigelow for Assembly 2016 was his candidate-controlled committee. Vona L. Copp was the Committee’s treasurer. The Committee, Bigelow, and Copp failed to pay expenditures from the designated campaign bank account, in violation of Government Code Section 85201, subdivisions (d) and (e) (1 count). **Total Proposed Penalty: \$2,000.**

Statement of Economic Interests Non-Filer

- 27. In the Matter of Eddie Crandell; FPPC No. 17/727 (Streamline Stipulation).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. Eddie Crandell, a Planning Commissioner for Lake County, failed to timely file a 2016 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (1 count). **Total Proposed Penalty: \$200.**
- 28. In the Matter of John Guthrie; FPPC No. 17/736 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Enforcement Intake Manager Tara Stock. John Guthrie, an Oversight Board Member for the City of San Jose, failed to timely file a 2016 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**
- 29. In the Matter of Jerry Furman; FPPC No. 17/737 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Enforcement Intake Manager Tara Stock. Jerry Furman, a Consultant for the City of San Jose, failed to timely file a 2016 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**
- 30. In the Matter of Millette Litzinger; FPPC No. 17/740 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Enforcement Intake Manager Tara Stock. Millette Litzinger, a Consultant for the City of San Jose, failed to timely file a 2016 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**
- 31. In the Matter of Charles Camp; FPPC No. 17/963 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Enforcement Intake Manager Tara Stock. Charles Camp, a Board Member for the California Workforce Investment Board, failed to timely file a 2016 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**
- 32. In the Matter of Chris Williams; FPPC No. 17/1169 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. Chris Williams, a City Councilmember for the City of Gridley, failed to timely file an Assuming Office Statement of Economic Interests, in violation of Government Code Section 87203. **Total Proposed Penalty: \$200.**
- 33. In the Matter of Stephen Lowry, FPPC No. 17/1180 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. Stephen Lowry, a Court Commissioner for the Los Angeles County Superior Court, failed to timely file a 2016 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (1 count). **Total Proposed Penalty: \$200.**

Statement of Economic Interests Non-Reporter

34. In the Matter of Diana Guerra-Silva; FPPC No. 17/945 (Streamline Settlement).

Staff: Chief of Enforcement Galena West and Enforcement Intake Manager Tara Stock. Diana Guerra-Silva, Mayor Pro Tem for the City of Orange Cove, failed to timely disclose a gift of tickets to an Oakland Raiders game on her 2016 Annual Statement of Economic Interests, in violation of Government Code Section 87207 (1 count). **Total Proposed Penalty: \$100.**

General Items 35-39

35. Adoption of Amendments to Regulations 18225, 18247.5, 18402, 18420, 18423, 18435, 18450.3, 18450.5, 18521.5 to incorporate AB 249. Staff: Sukhi Brar, Senior Commission Counsel, Legal Division. Staff proposes the first phase of regulatory amendments resulting from the implementation of AB 249 (the Disclose Act), which overhauled the Act's advertising disclosure provisions. This proposal will harmonize existing language and remove redundant language. A second phase of regulation amendments to incorporate AB 249 will be considered at the January Commission Meeting.

Staff Memo

Proposed Repeal of Regulation 18225

Proposed Amendments to Regulation 18247.5

Proposed Amendments to Regulation 18402

Proposed Amendments to Regulation 18420

Proposed Amendments to Regulation 18423

Proposed Amendments to Regulation 18435

Proposed Amendments to Regulation 18450.3

Proposed Amendments to Regulation 18450.5

Proposed Amendments to Regulation 18521.5

Chair Remke: Okay. So, starting with item 35, adoption of amendments to the regulations to reflect the changes in the law as a result of the disclose act.

9:45 Sukhi Brar, Senior Commission Counsel: Good morning Chair Remke and Commissioners. Sukhi Brar, Senior Counsel with the Legal Division. I'm here to present proposed regulations implementing AB 249. This is the first set of regulations and we asked for the Commission's support and approval of the proposed amendments to these nine regulations and with that I will open up to questions.

Chair Remke: Okay. Any questions for the Commissioners regarding item 35?

Commissioner Hayward: I just want to reiterate for everyone participating in the process, it did seem to me like these were very focused on the fact that our regulatory language,

that 18225, is now moved into the statute, and so, we need to make conforming changes so that the now non-existent 18225 doesn't have any cross-references.

Sukhi Brar: Right. It's pretty... Most of these are mostly technical in nature, eliminating language that's no longer needed because of AB 249. So, you could look at these as mostly technical nature trying to implement the bill at this point there's one minor amendment that doesn't have to do with AB 249 but it's a minor one and then some grammatical changes.

Commissioner Hayward: Okay. Nothing further.

Chair Remke: Okay. Any public comment on item 35? Okay. Seeing or hearing none, is there a motion?

Commissioner Hatch: I move the agenda item.

Commissioner Hayward: I'll second.

Ayes: Commissioners Hatch, Hayward, and Chair Remke.
The motion passed 3-0.

Chair Remke: Thank you, Sukhi.

- 36. Adoption of Amendments to Regulation 18450.1 Definitions. Advertisement Disclosure.** Staff: Karen Harrison, Commission Counsel, Legal Division. Commission will consider two options for proposed amendments to Regulation 18450.1 intended to clarify the disclosure requirements for yard signs. Option 1 is consistent with staff's proposal in October 2017 restricting yard signs to those 6 square feet or less. Option 2 reflects AB 249 (the Disclose Act) sponsor's public comment that yard signs require a disclosure regardless of size and quantity under AB 249. Additionally, staff proposes amendments to Regulation 18450.1 consistent with new Section 84501, recently enacted by AB 249. The proposed amendments remove redundant language, harmonize new statutory language, and improve readability.

Staff Memo

Proposed Amendments to Regulation 18450.1

Chair Remke: Okay. Item 36, adoption of amendments to regulation 18450.1, definition of advertisement.

Karen Harrison, Commission Counsel: Good morning, Karen Harrison, Commission Counsel, Legal Division. I'm here to present the proposed amendments to regulation 18450.1. This regards the definition of advertisement for purposes of disclosures under the authority of section 84501. We're presenting a number of amendments which reorganize the regulation, clean up some of the language, as well as conform with AB

249. Substantively looking in subdivision A we have proposed language to add a few terms under electronic media communication this reflects the language in AB 249 and we also address the overflow issue, or the carryover issue, of yard signs this was presented to the Commission in October at the pre-hearing, pre-notice hearing, and that was the proposal to define yard signs for some clarity to the regulated community as signs no larger than six square feet. This is now presented as option one and this language is carried through that is the substantive change that would occur. We also are proposing an option 2 to the yard sign language, following our November Interested Persons meeting, where this regulation came back up again. Proponents of AB 249, the California Clean Money Campaign, requested that yard signs be subject to campaign disclosures, like billboards, at the threshold of one and so we have prepared option two to reflect that request. Subsequent to that, we additionally received another request from the California Clean Money Campaign that suggested the removal of thresholds as to ballot measure committees, independent expenditure committees, and ads paid for as an independent expenditure. We are not proposing or recommending that option at this time. The threshold of 200, which is in the regulation, has been in the regulation since it was adopted by the Commission in 2002. It was put in place to protect small actors in the political campaign community. It balances the public need for information with the right to free political speech and this is under the authority of the Commission to set these thresholds under section 84501. It is still under the authority of the Commission to set these threshold levels as that section was amended by AB 249. Looking down to subdivision B, we're proposing removing language which is now duplicated and amended section 84501. The remaining language reflects the burden of proof when a committee is claiming an exception from disclosure requirements on electronic media due to the disclosure being impractical or severely interfering with the message. This reiterates the burden of proof requirements under Evidence Code 500 which places that burden on the claiming party. And then in subdivision C, we propose to relocate the reference to aggregation rules applicable to determining when a contributor has reached the \$50,000 threshold. This language is currently in regulation 18450.4 which is proposed in the January set of proposals for repeal with the exception of this language. All of the language in that regulation is now not needed with the exception of these aggregation rule references and we believe it's appropriate to relocate that language here in this regulation.

15:47 Chair Remke: Okay. Thank you. Questions from the Commissioners?
Commissioner Hayward.

Commissioner Hayward: Yes, thank you Madam Chair. So, I guess I would first of all opt for option 1 on the yard sign. I understand that the notion that there's a differentiation is, you know, sort of a threshold notion, it's a notion that we've been living with for a while, and it would occur to me that to provide for, first, a document disclosure in that way does run up against things like the McIntyre decision and other places where the court has found that you know it vary retail levels the same amount of disclosure isn't really justified now what I'm curious about is the burden of proof question in 18450 3(b) and you cited Evidence Code 500 which, like Mathieu Peterson, it's not coming trippingly off

my frontal cortex. What does Evidence Code 500 say and why does it relate to what we're talking about today?

Karen Harrison: Evidence Code 500 says, except as otherwise provided by law a party has the burden of proof as to each fact the existence or non-existence of which is essential to the claim for relief or defense that he is asserting. So, I was just going to say, this burden of proof language is currently in the regulation. It's been in the regulation since electronic media was added to the regulation in 2010, and so, then it is just continuing that existing language and the burden of proof referenced is the burden of proof that we use in our hearings. And so, that is what is control as to what needs to happen if a committee is claiming this exception from disclosure.

Brian Hatch: Why is it underlined?

Commissioner Hayward: Excuse me. I'm still working. Does the California Evidence Code look at different forms of burden-shifting or different identifications of the of the burden of proof when we're talking about, I don't know, things like First Amendment claims, religious freedom claims, speech claims, slap suits? Is it because, I think what you're saying to me sounds like the general rule and I'm just wondering if there's exceptions to that general rule in the Evidence Code.

Karen Harrison: I don't know the answer to that question but, what I can tell you, is that this is applying to a particular situation where there's an electronic media communication. It's an advertisement and a committee would be claiming that they fall under an exception to the disclosure rules and that they can put a hyperlink instead of having the actual disclosures that are required under AB 249. So, they would be claiming that exception and under the section, the way it's written, that burden of proof is on the committee and we are including it because it's existed in our regulation. We're including that language just as a clarification. And, if I may, there was a question as to why it's underlined. It's actually later, if you look further down in the regulation, if you look under subdivision B and then, let's see, 3B, the language is there and this is... it's stricken and then underlined because it's reorganized. So, we've just moved the language up because all the rest of the language has been deleted as duplicative.

Commissioner Hatch: Is that page 3, line 8?

Karen Harrison: Correct. So, if you look, actually on line 9, "any committee that claims required two disclosure in an electronic media advertisement is impracticable has the burden of establishing that a disclaimer could not be included due to the above factors." So, my apologies if that was confusing.

20:15 Commissioner Hatch: I see. The only difference is the word proof.

Chair Remke: Commissioner Hayward, were you done?

Commissioner Hayward: Yeah, I think I am. Thank You.

Chair Remke: Commissioner Hatch, questions?

Commissioner Hatch: So, you consider that first phrase there just a title?

Karen Harrison: Subdivision B, where it says burden of proof...

Commissioner Hatch: (Overlapping) Page 216.

Karen Harrison: Yes, that was just for clarity.

Commissioner Hatch: All right. I had some questions around the letter that we received fairly late about... from the Clean Money Campaign, relative to the application of those regs the second page of their letter, at the very bottom, it says we therefore respectfully request that you amend paragraphs three, four, five, six, and eight of the draft regs to only apply the ads to paid for by quote a candidate control committee established for an elective office for controlling candidates or a political party committee. And then, they go on to, in essence, say that anybody else, which is, you know, your independent expenditure campaigns, and so on, would be from the first impression.

Karen Harrison: Correct.

Commissioner Hatch: And your option B, I think, doesn't conform to that. Can you explain to me why you diverted... diverged from that?

Karen Harrison: Option two was in response to the comments that we received after the... at the November Interested Persons meeting. And, at that time, the comment was that the yard signs should be likened to billboards, and then this comment that's come in later is saying that that would apply to telephone calls, print media, flyers, door hangers, and so, option two was drafted prior to this this letter being received.

Commissioner Hatch: It seems like we need an option three.

Karen Harrison: That is - that is a possibility that the Commission can certainly look at.

Commissioner Hatch: Because, I wouldn't want to sweep all of these categories together when the statute seems to make a distinction, don't you think.

Karen Harrison: Well, we had some concerns as well. When you talk about applying no thresholds to a door hanger it's a little bit different situation, perhaps, than a yard sign.

Commissioner Hatch: Right, but as I read it, what he's trying to say is that your traditional campaign committee would not be subject to the first impression requirement.

It's just the hard to identify money that comes in and does all sorts of nefarious kinds of things to confuse the public.

Karen Harrison: So then, the no thresholds he's requesting would apply to ballot measure committees and independent expenditure committees and also independent expenditure ads paid for by these other committees by the candidate committee, candidate control ...

Commissioner Hatch: Which is not within their traditional...

Karen Harrison: Correct.

Commissioner Hatch: You have a problem with that?

Karen Harrison: It's not our recommendation just because of the fact that these thresholds have been in place since 2002 with the idea that they protect small actors and that protection would be taken away. That was our concern.

Commissioner Hatch: How do you identify a small actor? I think we had a conversation, not you and I, but six months ago, or so about small actors and big actors how difficult it is for you to be able to tell in advance with which they are.

Karen Harrison: I think... I think the difference would be between a group that is sophisticated and aware of disclosure campaign rules and perhaps a group that is just coming into the system and qualifying, perhaps, as an independent expenditure committee and might run afoul of the disclosure rules as applies to one item whereas those thresholds gave them a chance to have 200 printed flyers before they had this requirement to have the disclosures and subject to the fines that could come if they did not have the disclosures.

25:13 Commissioner Hatch: I tend to come down on more clarity that if you're in a certain category committee, one set of rules ends up serving us better, because you can get trouble with the 200 just as easily by doing more than 200 and not realizing that there was even a limit. I would like to see this go back and get redone and try to incorporate that the recommendations of the Clean Money Campaign relative to these issues. I realize it came in late, so I don't mean to criticize, I just think we should work it through.

Karen Harrison: If I could have some clarification. is the entire... I'm not sure what the direction is for January. we're requesting adoption of a number of amendments and perhaps there's a way that we could focus in on what needs to be addressed in January. If the Commission could give us some direction that the rest of these changes are agreeable, then we could focus in on option one, two, and three.

Chair Remke: Well, I'm not even sure we have consensus here because...

Commissioner Hayward: I'm fine with the package you brought forth I'm not sure I'm fine with the burden shifting but I think my argument is with the Evidence Code, not you.

Chair Remke: So, good luck with that.

Commissioner Hayward: Until I can tell, yes, if, you know, until I figure out which lawsuit needs to be brought, or somebody writes me an email when I get home to say, you idiot, that's not what this means.

Chair Remke: But, I want to, I just want to see again about it if we have even had consensus of what to recommend. So, you, Commissioner Hayward, were leaning towards option one?

Commissioner Hayward: Yes, option one on the yard sign.

Chair Remke: So, leaving the thresholds in for both the door hangers and the yard signs.

Commissioner Hayward: Yep.

Chair Remke: Okay, so...

Commissioner Hayward: Yeah, no. I'm all about maintaining the thresholds. Do you think it matters because we could be conceivably talking about a one-off or two off docket, because up down the road and I don't think we need to go there.

Chair Remke: I'm getting lost in the subsequent proposal regarding doing it by committee. So, with that, what would that look like? Can you help me understand Karen? So, is the idea that we'd still keep the thresholds, but then narrow it also by committee? I don't even know what understand what the proposal is.

Karen Harrison: I'm not sure. Are you referring to...?

Chair Remke: Referring to the late suggested amendment from Clean Money about...

Karen Harrison: You mean what that would look like if we were to come up with an option three?

Chair Remke: Yeah. What would the option three look like, in your mind, as far as you understand it, because I don't know.

Karen Harrison: I've considered a number of ways of addressing it. I think... I think the way it's written in this letter, you would add to each category, three through eight, that it only applies to these listed committees.

Commissioner Hatch: Or, you could put it at the beginning of the section so that it would apply... So, because it does apply to virtually all of them, doesn't it?

Karen Harrison: Yes, and then it also has a request that the telephone communications be increased to a threshold of 500 as applies to those committees.

Commissioner Hatch: For all of them, or just...? I thought it was just certain.

Karen Harrison: It would be for, 500 for the candidate committee, the candidate controlled committee established for elective office, and the political party committee.

Commissioner Hatch: But for all the different categories in paragraphs three, four, five, six, and eight.

Karen Harrison: All the rest are, the request is to remain at the 200 level. The 500 is reflecting section 84310.

Commissioner Hatch: Right. Which is, I thought, it just applied to one of the categories in this reg but I guess I'm wrong. So, they're suggesting you change it from 200 to 500 and all those paragraphs.

30:00 Karen Harrison: No. Only to A3 which has to do with telephone calls.

Commissioner Hatch: Yes, I thought it was just one category. All right.

Karen Harrison: Yes.

Chair Remke: So, we're going to have five hundred and two hundred and specific committees. I mean, I feel like we're going in the wrong direction of simplifying rules and regulations by carving this out and cutting it up. I don't even understand what the proposal is. So, that's my position.

Commissioner Hatch: To go further than to be in compliance with their wishes, if 3A were changed from 200 to 500, the rest left the same, and at the beginning of the section before you come to A, if you put the parsing language that they want as to which kinds of committees would be nonetheless on the first impression, you know, first copy. However you want to say it. And, the candidate committee itself and the party would still be subject to these 200 limitations except for the one that's 500. That would be my wishes.

Karen Harrison: To present...

Commissioner Hatch: Is that good enough or do I need to do that a different way?

Karen Harrison: So, I'm sorry. So, you're saying that at the very beginning of the regulation, you would want to see the narrowing of the language to the particular committees?

Commissioner Hatch: Right, and then a provision that says that for these other two... for these other committees and activities of certain other committees be required to disclose from the first impression, which is essentially the independent expenditure activity.

Karen Harrison: I think it would require a little more modification just because we have a1 and a2 that are more definitional and don't relate to thresholds. We really only get into thresholds once we're starting with three.

Commissioner Hatch: Well, I'd be satisfied if you had that language over and over but I don't think it really matters. I think you could have it at the beginning and it wouldn't do violation to one or two. Actually, two is being stricken. Yeah, I don't think it... I don't think it would conflict if you put it at the beginning but, you know, you're the lawyer, I'm not. So, if you feel more comfortable with adding those provisions over and over, you know, each of those subdivisions, I'm okay with that.

Chair Remke: You can... you do have other comments other than drafting and particularly, I just, I'll just have a question.

Commissioner Hatch: No, go ahead.

Chair Remke: Thank you. I really am still trying to understand what the proposal... is it that the 200 exception. the quantity would apply to everyone. but this list here, is that right? The candidate, candidate controlled, and political party would not have a 200 threshold?

Commissioner Hatch: Just backwards.

Chair Remke: Really? We're giving the most sophisticated people the 200 threshold?

Karen Harrison: Yes.

Commissioner Hatch: The candidate committee and the party would be subject to basically what you've always done, the 200 limit, except that one provision and three, which would be 500. The pros that do independent expenditures would be subject to first copy.

Chair Remke: Okay, well, I guess I would say the pros are the candidate, the candidate controlled committee, and the political party. So, I don't understand why would be distinguishing these groups. That's... I think we're just going down a road of how complicated can we make this, you know?

Commissioner Hatch: (Inaudible).

Chair Remke: Yeah, I'm talking, and I'm talking to Karen, so I want a responsive like so now we're going to have five hundred, two hundred disclosure, depending on what kind of committee you are so it's like two or three different elements to whether or not disclosure needs to be on there.

Karen Harrison: It does get complicated.

34:56 Chair Remke: All right. So, that's the direction you'd like to go into?

Commissioner Hatch: I would remind the Chair that we are also required to have our regulations in harmony with the statute. So, I'm just pointing out that we're not in harmony with it.

Chair Remke: I understand.

Commissioner Hatch: Making recommendations, how you can be in harmony with it and I won't support a draft that's not in harmony with the statute.

Chair Remke: Okay. So, thank you.

Karen Harrison: If I may make a comment addressing that, the legislature hasn't specifically addressed the thresholds, and so, I'm not sure that it is not in harmony with the changes in AB 249. The legislature was aware of the regulations when it passed AB 249 and didn't specifically address it and the presumption is that if the legislature hasn't specifically addressed it that it remains in place. That it continues and I know the legislature is looking at clean up language for AB 249 and, you know, possibly, if this is an issue they have on their list to address, but as it currently stands, they didn't address thresholds in the legislation. So, the regulations... you're just given case law and some research that we've done. The regulations would stand.

Commissioner Hatch: Where do you think you got that 500?

Karen Harrison: The 500 for telephone calls? That's in 84310. And 84310 has been 500 telephone calls since it was enacted, I believe in 2006, and so that that has that has been in existence in our threshold.

Commissioner Hatch: (Overlapping) (Inaudible)

Karen Harrison: Yes. and our regulation has been in existence since 2002. And, there is some overlap between the two but this has been in existence.

Chair Remke: But ones robocalls. I mean they're different calls we're talking about, right? Is that the issue of the 500 versus the 200? Like the 200 in the regulation is all calls.

Karen Harrison: Correct.

Chair Remke: And the 500 that's in the statute is regarding robo calls.

Karen Harrison: Yes, it's substantially similar...

Commissioner Hatch: (Overlapping) But we're not in harmony with the statute.

Chair Remke: No, because those are robo calls and these are all calls.

Karen Harrison: So, if you make one phone call, or if you make 200 phone calls, they don't have to be this substantially similar robo calls. You can have paid for telephone calls that are that are not the not that same category.

Commissioner Hatch: How do you get 500 robo calls and being... not be in... and be in compliance with subdivision 3 which limits all calls to 200.

Karen Harrison: I think that in the past the interpretation has been that 84310 covered those robo calls and that the 200 picked up telephone calls that were in that other category.

Commissioner Hatch: (Inaudible) live people.

Chair Remke: Yeah.

Commissioner Hatch: You said this is all calls, in 3.

Karen Harrison: Yes.

Commissioner Hatch: It doesn't distinguish whether it's a live person or not.

Karen Harrison: Its telephone calls not solicited by the recipient. But again, this... these... the 500 and the 200 have been in existence together for many, many years. The 200 came in first, in 2002, and then 84310 was enacted, I believe, in 2006.

Commissioner Hatch: And we just ignored it in 2006?

Karen Harrison: I think that there was seen to be some overlap but it hasn't created a problem.

Commissioner Hatch: Not until you charge somebody.

Chair Remke: Isn't it that 200 is the basic, and then 500, a new requirement, is added on, on the Robo call? I mean, I don't think that they're inconsistent. But, are you... so you want the 500, right? Is that correct?

Commissioner Hatch: Right. I mean...

Chair Remke: Okay. So...

Commissioner Hatch: It's either that or you bifurcate this to distinguish actual voice calls from robo calls and have them listed separately in here if you want to be right. But otherwise, you have to honor the 500.

Chair Remke: Okay. So, okay. I'm going to ask for public comment and then we can come back to what... how we're going to make them take action on this. Is that fair? Okay, public comment?

39:29 Trent Lange, California Clean Money Campaign: Sorry about that. Trent Lange, president of California Clean Money Campaign, the sponsor of AB 249. So, hopefully I can speak to the intent of the legislation. We also have representative of the author here who can also speak to the intent of the legislature as a represent of the author. So first of all we'd like to thank the Commission and the staffer for their good work on these regulations others and this is the one that we have the comment on but the other regulations were we're very happy to see do seem to be fulfilling through intent of AB 249 as far as we as sponsor see it I think I can answer a couple of your questions here directly these numbers were explicitly the intent of the sponsor, the author, and we believe the legislature. that's why they are clearly written in the code the way they are section 84305, as it described in our letter, does specifically address only communications mass mailings and mass electronic mailings by candidates can take control committees established for an elective office for the controlling candidate or political committee or political party committee. it has different disclosure requirements for candidate committees and political party committees the intent of AB 249 was to only address advertising disclosures on ballot measures and independent expenditure committees those ones that have the secretive problems that so many people are concerned about as you saw in your hearing a few months ago so 84305 is essentially the same as before but narrow it explicitly to just those candidate and political party committees that's where the number 200 comes in 84310, that is also exactly the same as has was implemented in 2006 with some additional clarifications and I'll note that it does not only apply to robo calls it actually says 84310 as in AB 249 says these sorts of committees that to pay for telephone calls that are made in similar nature and aggregated 500 or more number made by an individual or individuals or by electronic means so it's both robo calls and paid phone bankers basically so what that would be for from candidate and political party and slate mailer committees the rest of the code in AB 249 which as you all as you all know it was basically completely revamped because we were changing the disclosure format for ballot measures and IE committees other kinds of committees then then those does not have any quantity, explicitly does not have any

quantity requirements in there those only places that you see the quantity requirements are in 84305 and 84310 and in fact these sections in AB 249 that describe the actual disclosure formats for those types of for radio ads print ads robo calls etc. in 84504, 85402, 84503 they again do not have any quantity requirements and I'll also note that 84305 and 84310 actually do not redefine what an advertisement is all they say is that those candidate and political party ads for those types have to have the disclosure only in quantities of over two hundred or five hundred so this is an explicit reading straight from the straight from the statute.

Commissioner Hatch: So, it's a threshold that certain committees (inaudible).

Trent Lange: Yes, and the readers. There's a good reason for the intent of AB 249 was to address the problems of disclosure on ballot measure committees and independent expenditure committees as the floor manager in the Senate, Senator Ben Allen, said on the floor of the Senate AB 249 makes it very clear as it, quoting him, makes it very clear to a voter when they receive a mailer that is coming from an independent actor and not a campaign. that was the whole point of the legislation was to make clear prominent and consistent disclosures on ballot measure and independent expenditure committees because people will tend to assume that a mailer about a candidate is a comes from candidate themselves if they don't understand that it's coming from an independent expenditure group that's why a threshold under two hundred is okay on candidate paid committees but not okay on independent expenditure committees so this was very, very intentful. We have a couple, I know there were at least a couple other public comments that are going to talk about we understand that the reasoning behind the regulation in 2002 was laudable by trying to avoid having individuals have to have these disclosure requirements if they're printing off a couple of yard signs or a couple of flyers or things like that AB 249 addresses that by saying that it's disclosure requirements only happen for committees so that original reason for the regulation number of two hundred doesn't apply to AB 249 because only committees have to have to have that if you're looking at burdens on committees who have to have a certain amount of sophistication because they have to become committees and follow all that paperwork we believe and we other comment... public comment will testify it would actually be increased burden on committees to have two separate kinds of disclosure on them for ballot measure and IE committees the disclosure required if they have over two hundred items printed or the disclosures required IE none if there are under two hundred and the additional record-keeping and receipts how are they going to prove that they printed less than 200? what if they printed it on their printer in their committee office as many small committees will do there's I think there's lots of concerns about that. furthermore, we are also concerned about the public the whole point of AB 249 was so that the public could expect to see clear and prominent and consistent disclosures on ballot measure and independent expenditure ads. if they sometimes get and recognize that and if they sometimes get ones without any disclosure how are they supposed to know whether it's a committee that is in violation because they printed over 200 and didn't include the disclosure or one that is under 200. so I suspect you'll see members... if you keep this threshold with these new clear prominent disclosures you will see members of the public who will falsely or not

falsely make complaints about violations of the disclosures not appearing simply because they got ones that were under 200 but they didn't know that so for all these reasons and explicitly the our... we've consulted with our counsel who is acknowledged expert on administrative and regulatory law and he's he describes there is no statutory basis for the 200-level applying to committees that are not defined in 84305 or 84310. we think it would actually be an increased burden on committees not serve the public and certainly not serve the intent of AB 249. And, I can answer your questions or...

Chair Remke: You have a question for him? Commissioner Hatch.

Commissioner Hatch: It's not so much a question but in the future, I think would serve you well if, when you write a letter like this, you include the draft of your own markup of what this does right should look like.

47:55 Trent Lange: Okay. Good point. Thank you.

Commissioner Hatch: Otherwise (inaudible).

Trent Lange: Right. Good point. and we do describe in the other letter these two different ways that you could address it either as you were discussing by putting in the committee caveats one way or the other and I also discussed with staff another option which is to say that those section three four five and six of the regulation actually don't add anything because they are... those are defined as advertisements already in Section 84501 so a possible alternative is actually just strike those paragraphs because they are laid out in the statute 84501 and then 84305 and 84301 have the different quantity thresholds for the appropriate committees

Commissioner Hatch: And there still is an opportunity for you to do that.

Chair Remke: Okay. Any additional public comment?

Shane McCloud, Money Out, Voters In: Good morning Chairman Remke and Commissioners. My name is Shane McCloud and I'm speaking on behalf of MOVI: Money Out, Voters In. My experiences is working with this organization, with Trent's group California Clean Money Campaign, and as a former campaign manager to last year's statewide initiative campaign, voters right to know. I urge you to implement draft regulation 184501 A which would not implement it, which would exempt certain communications under 200 pieces with the California disclose act requirements as has been noted. This will complicate matters for some committees, like the committee MOVI operated in 2016, in support of proposition 59, a truly grassroots campaign with enough decentralization and volunteer participation, such that it would not only have been nearly impossible to find a way to track who was printing what and how many, and try as we might, we'd likely have been unsuccessful. More troubling to us was what a well-funded campaign with donors who would like to remain anonymous might do with that 200-piece limitation. What sort of whisper campaign could come outside of the disclosure

requirements. We can start with what would constitute a different communication is one word or is it twenty imagining the ways in which the seemingly tiny, this is seemingly tiny, and I'm sure we'll intended exemption might play out during an actual campaign alarms us and does not, we think, reflect the intentions of the California Legislature when they pass the disclose Act nor the wishes of the California voters worked so hard to achieve major donor disclosure on political advertising. Our concerns are with how big committees would use the 200 flyer loophole by just creating enough different communications each sent out in 200 or less especially it'd be especially problematic for local races you may have thousands differing these committees may have thousands volunteers who work to pass or I should say thousands of volunteers who work to disclose it disclose act wanted clear a wanted it to be clear AB 249s closures on all about measures and independence vendors adds not to have exceptions for some community communications due to how many we were sent in how many they were sent in. the additional burdens on small committees like MOVI and voters right-to-know and even any of these smaller groups those grassroots organizations have been keeping all the records of how many copies of each communications were sent out to prove whether you sent out 200 or fewer it would just be too burdensome. Thank you for your consideration.

Chair Remke: Thank you. Any additional public comment?

51:58 Jack Blattner, California Common Cause: Good morning Chair and Commissioners. My name is Jack Blattner with California Common Cause. As strong supporters of AB 249, as it passed through the legislature, I wanted to start by thanking the Commission for how quickly it has moved to conform and update its regulations to the bill. We see no problems with most of the newly proposed regulation changes that staff has brought forward but, like California Clean Money Campaign, Money Out, Voters In, and the Author's office, we would urge the Commission to reject the proposal to exempt some communications produced in quantities of less than 200 from AB 249s disclosure requirements. Exempting certain communications produced by campaign committees runs contrary to AB 249s text and intent one of the primary purposes of AB 249 was to create uniform predictable disclosures the voters could easily identify on advertisements exempting certain communications from AB 249s requirement creates two reporting rules and potential for unnecessary confusion both to filers and to the public we also fear that enforcement of the 200 copies or fewer provision would be difficult if not impossible. for bad actors, the 200 copies or your requirement would be easy to circumvent as committees could print in house with little possibility of auditing or use several different vendors to make counting print runs difficult. for good actors, the provision might force campaign committees to keep proof that advertisements were produced in small batches which could prove burdensome. good actors could also retroactively violate the bill or the regulation by printing a run of a hundred and fifty so copies and then later printing more thereby making the first print run retroactively violate the regulation. finally, the proposed threshold would also reduce disclosure of who is funding ads the primary purpose of AB 249. for example, under the draft proposal 199 yard signs could be printed without disclosing funders which over the course of a campaign would likely be viewed by thousands of voters for these reasons, we echo the California Clean

Money Campaign and the Author's office and respectfully requesting that the Commission amend the draft regulation to apply to all campaign advertisements regardless of quantity thank you

Chair Remke: Thank you. Is there any additional public comment?

54:30 Laura Fitzgerald, representing Assemblymember Kevin Mullin: Good morning Madam Chair and Commissioners. My name is Laura Fitzgerald. I'm here on behalf of Assemblymember Kevin Mullin as a member of his legislative staff. I'm just here to share some of his comments. On behalf of Assemblymember Mullin, the California, the author of the California Disclose Act, I'd like to thank the Commission and its staff for working so diligently on the regulation changes needed to implement it. One important issue that he has, however, is on draft regulation 18450.1 as is requirements that certain communications be in quantities of two hundred or more to be considered an advertisement in paragraphs three four five six and eight he would like to make clear that... clear here that this was not the intent of the legislature and definitely not his intent as author of AB 249. AB 249s section A 84501 A's definition of advertisement very clearly spells out the intended exceptions to when communications are to be considered advertisements there is intentionally no reference to the number of communications required to be considered advertisements nor is there any reference to the number of communications required for their disclaimers requirements and sections 84504 through 84504.4. instead AB 249 specifically only includes quantity requirements in sections 84305 and 84310 regarding advertisements paid for by a candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee. the reason for this difference as described by the California Clean Money Campaigns letter of December 11th is that voters will automatically tend to assume that ads without disclosures are paid for by candidates so it's okay if ads paid for by candidates and small numbers don't include disclosures but it is not okay for ads regarding ballot measures or independent expenditures for and against candidates not to include disclosures regardless of quantity. we also agree with the other signers of the letter describing how having different disclosure requirements for committees based on the quantity quantities of ads printed would be a burden on ballot measure and independent expenditure committees that not only get goes against the intent of AB 249 but is counterproductive to the information needs of the voters thank you for your time this morning I appreciate you giving me the opportunity to share some of Assemblymember Mullin's comments and we ask that you consider some of the solutions and comments brought forward by the California Clean Money Campaign. Thank you.

Chair Remke: Thank you. any additional public... question? Commissioner Hatch.

Commissioner Hatch: Question for the speaker.

Chair Remke: He has a question for you.

Commissioner Hatch: Since you are the representative of the author, did you consider whether the actual candidate campaign should even need to put a disclaimer on considering the assumption of unmarked material is from the campaign?

Laura Fitzgerald: If it's all right, I don't believe that I'm the person to answer questions. I think that I'd like to defer to Trent with the Clean Money Campaign if that's alright. Thank you.

Trent Lange: To answer your question, obviously, we as a sponsor, and we believe Assemblymember Mullin also, do believe that can take committees generally do need to provide disclosures. Especially when they're doing large numbers of print materials and so forth, but under small numbers, under the history of the Commission's regulations on that, a sponsor we thought it was acceptable to have under 200 paid for by candidates not have the disclosure.

Commissioner Hatch: (Inaudible).

Sasha Linker: (Overlapping) Excuse me, Commissioner Hatch. Can you please bring the microphone closer so those on the phone can hear?

Commissioner Hatch: Sure. Thanks. I wasn't asking you what is but rather why should we since the public generally thinks that a piece of campaign material that doesn't have any disclosures is probably from the campaign why do we even require the campaigns to put a disclosure on it seems like there's sort of an oxymoron.

Trent Lange: Well, we would, we would think that it's useful to the candidate committees and political party committees and AB 249 don't have to show their top donors, and so forth, but it we believe that it's helpful to the public to be able to easily identify the committee that paid for the ad when there are truly mass mailings, and that are going to affect large numbers. So, it's partially identifying the committee that's responsible.

Commissioner Hatch: Thank you.

Chair Remke: Any additional public comment on this item? Okay, is there a motion? I would propose that we put it over to January and come back with an option three, which is outlined in the letter, so then we can see the three options in front of us and have any more clear...

Karen Harrison: Chair Remke, just a point of order.

Chair Remke: Probably February, right?

Karen Harrison: I'm thinking that this would need to go out for an interested person meeting again.

Chair Remke: Yeah, because this is a whole new idea. So, we... so, but the idea would be to bring it back with the three options completely drafted out so we could see what is being said and make sure we all understand it. Because, I still think there's an issue so let's do that. Take it back to an interested person meeting and is that agreeable?

59:55 Commissioner Hayward: Yeah, I would agree with that. I think, you know, we've got a question about thresholds here that I think is not just about AB 249 or what might be in the statute and what might be in the Reg but other restraints on constraints on our authority in case law. And so, if we could have a more fulsome, you know, discussion of those kinds of issues, hopefully the regulated community will help us along the way.

Chair Remke: And yeah, and I know that you tried to stay within the existing regulation with the one option, but the way I'm hearing option 3, it might have to be a whole redraft of a reg to make it more understandable, because I could tell you from my point of view right now, this option 3 is as confusing as a AB 249. So, I'd hope we can help out and make it a little clearer if we're going to go a third route. So, what you'll draft it up, work with the interested persons, and then bring it back to us and we'll have a further discussion on this.

Karen Harrison: Thank you.

Chair Remke: Thank you.

- 37. Adoption of Amendment to Regulation 18535. Restrictions on Contributions Between State Candidates.** Staff: Zachary Norton, Senior Counsel, Legal Division. At the Commission's direction, staff proposes to amend Regulation 18535 permitting unlimited contributions from a state candidate to another state candidate's legal defense fund or candidate controlled ballot measure committee.

**Staff Memo
Proposed Amendment to Regulation 18535**

Chair Remke: Okay. Item 37.

Zachary Norton, Senior Commission Counsel: Good morning Chair Remke and Commissioners. I'm Zachary Norton, Senior Counsel with the Legal Division and today staff is proposing, at the direction of the Commission, amendments to regulation 18535. Regulation 18535 was originally adopted to provide clarification regarding the limits on intercandidate transfers. At its July meeting, the Commission discussed the intercandidate transfer limit which, at that time, applied to state candidates who are the subject of a recall election. The Commission subsequently adopted an opinion, as well as, amendments to regulation 18535 permitting unlimited contributions from a state candidate to another state candidate who is a subject of a recall. During deliberation on those regulatory amendments, a comment letter was received asking the Commission to consider reversing its long-standing interpretation that limited one state candidate's

contributions to another state candidates Legal Defense Fund and candidate controlled ballot measure committee. Although the Commission could not take action on this proposal at that time, it did direct staff to prepare an amendment incorporating these changes. Staff has prepared an amendment to regulation 18535 as requested, which would expressly permit unlimited contributions from a state candidate to another state candidate's Legal Defense Fund and candidate controlled ballot measure committee. And with that, I open it up to questions.

Chair Remke: Any questions from the Commissioners?

Commissioner Hayward: Nope. In general, I'm pleased with the draft.

Chair Remke: Okay. Any public comment on 18535?

Richard Rios, Olson, Hagel, & Fishburn: Madam Chair, Commissioners, Richard Rios here just in support of the staff staffed of the proposed regulatory changes. Happy to answer any questions.

Chair Remke: Is there a motion?

Commissioner Hayward: I'll move approval.

Commissioner Hatch: I second.

Ayes: Commissioner Hatch and Hayward.

Nays: Chair Remke.

The motion did not pass.

Chair Remke: So, there's no action and we'll bring it back for January, if that is the will of the Commissioners?

Commissioner Hayward: Yes, please.

Chair Remke: Okay so we'll come back in January. Thank You Zak.

38. Executive Staff Reports. (Information Item)

Enforcement Division. Galena West, Enforcement Chief

Legal Division. Jack Woodside, General Counsel

External Affairs and Education. Courtney Miller, Manager

Chair Remke: So, the next item is the is the Executive Staff Reports. Any questions from the Commissioners for staff on the reports? I think there is one update that, in fact, just on Burgess in the Legal Division. That they did file their brief, correct? Okay, just that was the update. That's page four of the staff and yeah, so that's... Any other questions or comments from Commissioners on the report?

Commissioner Hayward: No.

Commissioner Hatch: No.

Chair Remke: Okay. Thank you, it will be submitted.

39. Proposed Future Agenda Items.

Note: The Commission may not discuss or take action on any matter raised during public comment that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code Sections 11125 & 11125.7(a).)

1:04:57 Chair Remke: And then, the last item is just hearing from the Commissioners about any items that have not already been talked about that will be on future agendas. I do have a running list for January already, not in front of me, but is there anything new that we haven't discussed or brought up that they'd like to have placed on the agenda?

Commissioner Hayward: I would like to consider [Music] that's nice music. Thank you. We should have little musical interludes in between people. I think I said on a future, under January 2018 in the staff report, I noticed that we may have a pre-notice discussion of possible amendments to the Conflict of Interest rules as applied to small shareholders and related business entities. I don't know what preferences others might have but I would like, at some point, for there be in the possible amendments to Conflict of Interest rules a slight modernization of how we approach family trusts, and I don't know if that's something that needs to be done in January, something we just think about, but you know, as it stands right now, a lot of people who, for estate planning purposes, have family trusts that are, you know, totally revocable in inter vivos and are taxed just like your, you know, bank account outside of a trust would be the way the reporting is handled right now they're there they're reported as separate entities and I think that's actually a bit confusing because it looks like you might have like a business that's got this family trust name to it, and it's not that at all, it's just your personal property that's being held in a different legal format for estate planning purposes, not for any other purpose. You know, I've course look terribly aggrieved by this because it's my situation, but I think it's a situation a lot of people find themselves in. I mean, if this is something that we have the power to do something about, I'd like to look into that.

Chair Remke: So, I would recommend that Commissioner Hayward work with Brian, who just came to the table and then, I won't put it as far as a month, but a future possible agenda, depending on what you guys come up with and what you propose. It's similar to what's on the pre-notice on the other conflicts that I know Commissioner Hatch is working with Brian as well and that timing will also just be based on when they come for together with something they think is ready for the agenda but we will add yours as well probably just without a month until you guys get somewhere. Okay Brian? Thank you. Okay. Anything else?

Chair Remke: I'll move to adjourn.

Commissioner Hatch: Second.

Ayes: Commissioners Hatch, Hayward, and Chair Remke.
The motion passed 3 to 0.

The meeting adjourned at 11:08 am.

Respectfully Submitted,
Sasha Linker
Commission Assistant
Approved January 8, 2018

Joann Remke, Chair
Fair Political Practices Commission