



## NOTICE AND AGENDA Commission Meeting<sup>1</sup>

California Fair Political Practices Commission  
1102 Q Street, Suite 3800  
Sacramento, CA 95811

Thursday, May 17, 2018  
10:00 A.M.

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.

Please note that the Commission may take a lunch break at approximately 12:30 p.m.

### **Welcome**

Jodi Remke, FPPC Chair

### **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.

---

<sup>1</sup>You can obtain further information about the meeting by contacting the Commission Assistant, 1102 Q Street, Suite 3000, Sacramento, CA, 95811, Tel. (916) 322-5745. Written comments on agenda items should be submitted to the Commission no later than 12:00 p.m. the day before the meeting in order to afford the Commissioners adequate time to fully consider the comments. Email comment letters directly to [CommAsst@fppc.ca.gov](mailto:CommAsst@fppc.ca.gov).

The agenda and related documents are posted on the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov). Materials submitted by the public regarding each agenda item will be made available on the website.

Members of the public may listen to the meeting by phone by calling (877) 411-9748; access code 723284; or watch the meeting via Webinar at [YouTube](#).

The meeting location is accessible to the disabled. Persons who, due to a disability, need assistance in order to participate in this meeting should, prior to the meeting, contact the Commission Assistant at (916) 322-5745 (voice), [CommAsst@fppc.ca.gov](mailto:CommAsst@fppc.ca.gov) (e-mail) and [ADACoordinator@fppc.ca.gov](mailto:ADACoordinator@fppc.ca.gov). TTY/TDD and Speech-to-Speech users may dial 7-1-1 for the California Relay Service to submit comments on an agenda item or to request special accommodations for persons with disabilities. Please allow three business days between the request and the meeting date.

## Approval of Commission Minutes

### 2. Approval of April 2018 Commission Hearing Minutes.

### Enforcement Consent Calendar 3-17

Items on the consent calendar will be taken up and voted on as a group. A Commissioner may request that an item be removed from consent, in which case it will be discussed separately in the meeting.

### **San Bernardino County Ordinance – Campaign Contribution Limit Violations**

- 3. In the Matter of Wyn Holmes; FPPC No. 16/589.** Staff: Commission Counsel Michael W. Hamilton and Special Investigator Paul Rasey. Wyn Holmes, a real estate developer in Southern California, made contributions over the limit to San Bernardino County Board of Supervisor Candidates Bill Holland and Paul Russ prior to the June 7, 2016 Primary Election in San Bernardino County, in violation of San Bernardino Ordinance 12.4305, subdivision (a) (2 counts). Holmes failed to timely file major donor campaign statements to report the contributions made in 2015 and 2016, in violation of Government Code Section 84200 (1 count); and failed to file one 24-Hour Report, in violation of Government Code Section 84203 (1 count). **Total Proposed Penalty: \$10,500.**

### **Personal Use**

- 4. In the Matter of Jackie Wong for School Board 2016 and Jackie Wong; FPPC No. 17/621.** Staff: Commission Counsel Theresa Gilbertson and Supervising Special Investigator Jay Martin. Jackie Wong was a successful candidate for the Washington Unified School District Board Member in the November 8, 2016 General Election. Jackie Wong for School Board 2016 was her candidate-controlled committee. The Committee and Wong made expenditures of campaign funds not related to a political, legislative, or governmental purpose, in violation of Governmental Code Sections 89512 and 89517 (1 count). **Total Proposed Penalty: \$3,000.**

### **One Bank Account Rule**

- 5. In the Matter of Barbadillo for Milpitas City Council 2014 and Garry Barbadillo; FPPC No. 15/248.** Staff: Commission Counsel Theresa Gilbertson and Program Specialist Patricia Ballantyne. Garry Barbadillo was a successful candidate for the Milpitas City Council in the November 4, 2014 General Election. Barbadillo for Milpitas City Council 2014 was his candidate-controlled committee. The Committee and Barbadillo failed to pay campaign expenditures from the designated campaign bank account, in violation of Government Code Section 85201 (1 count). **Total Proposed Penalty: \$2,000.**

## Lobbying Non-Filer

- 6. In the Matter of The Brimley Group; FPPC No. 17/1392 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Intake Manager Tara Stock. The Brimley Group, a lobbying firm, failed to timely file three lobbying firm reports covering the periods of January 1, 2017 through September 30, 2017, in violation of Government Code Section 86114 (3 counts). **Total Proposed Penalty: \$971.**

## Campaign Reporting

- 7. In the Matter of Pam Bertani for Solano County Supervisor 2014 and Pam Bertani; FPPC No. 14/1112.** Staff: Senior Commission Counsel Bridgette Castillo 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 for the 2014 elections. 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) (2 counts); and failed to timely file three 24-Hour Reports, in violation of Government Code Sections 84203 and 84203.3 (1 count). **Total Proposed Penalty: \$7,500.**

## Campaign Non-Filer

- 8. In the Matter of Global Investment & Development, LLC; FPPC No. 17/622 (Streamline Settlement).** Staff: Commission Counsel Christopher Burton and Political Reform Consultant Teri Rindahl. Global Investment & Development, LLC was a major donor committee for the years of 2013 through 2017. The Committee failed to timely file six semiannual campaign statements covering the reporting periods of January 1, 2013 through December 31, 2016, in violation of Government Code Section 84200, subdivision (b) (6 counts); failed to timely file nineteen 24-Hour Reports, in violation of Government Code Section 84203 (19 counts); and failed to timely report expenditures on a semiannual campaign statement, in violation of Government Code Section 84211, subdivisions (b), (i), and (k) (1 count). **Total Proposed Penalty: \$6,734.**
- 9. In the Matter of No on Measure M 2016, Damien Goodmon, Lewis Hall, and Thomas D. Carter; FPPC No. 17/290 (Streamline Settlement).** Staff: Commission Counsel Christopher Burton and Intake Manager Tara Stock. No on Measure M 2016 was a primarily formed ballot measure committee opposing Los Angeles County Metropolitan Transportation Authority Measure M on the November 8, 2016 General Election ballot. Damien Goodmon was the Committee's principal officer. Lewis Hall served as both the Committee's treasurer and principal officer. Thomas D. Carter was the Committee's treasurer. The Committee, Goodmon, Hall, and Carter failed to timely file two

semiannual campaign statements covering the reporting period of October 23, 2016 through June 30, 2017, in violation of Government Code Section 84200, subdivision (b) (2 counts); and failed to timely file nine 24-Hour Reports, in violation of Government Code Section 84203 (9 counts). **Total Proposed Penalty: \$2,829.**

**10. In the Matter of Clark & Sullivan Builders and Kevin Stroupe; FPPC No. 17/1430 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Staff Services Analyst Hayley Porter. Clark & Sullivan Builders, a real estate developer in Northern California and a major donor committee for the years 2014 and 2016. The Committee failed to timely file two semiannual campaign statements covering the reporting periods of January 1, 2014 through December 31, 2014, and January 1, 2016 through December 31, 2016, in violation of Government Code Section 84200 (2 counts) and failed to file four 24-Hour Reports, in violation of Government Code Section 84203 (4 counts). **Total Proposed Penalty: \$2,808.**

**11. In the Matter of Committee to Elect Al Murray Berkeley City Council 2016 and Al G. Murray; FPPC No. 16/19757.** Staff: Assistant Chief Counsel David Bainbridge, Commission Counsel Ruth Yang, and Associate Governmental Program Analyst Dominika Wojenska. Al G. Murray was an unsuccessful candidate for Berkeley City Council District 3 in the November 8, 2016 General Election. Committee to Elect Al Murray Berkeley City Council 2016 is his candidate-controlled committee. The Committee and Murray 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 sections 84200.5, subdivision (a), and 84200.8, subdivision (a). (1 count). **Total Proposed Penalty: \$2,500.**

**12. In the Matter of Committee to Elect Debbie Ponte for Supervisor 2012, Debbie Ponte, and Robin Fleming; FPPC No. 17/0541 (Streamline Settlement).** Staff: Commission Counsel Theresa Gilbertson. Debbie Ponte was a successful candidate for the Board of Supervisors in Calaveras County in the November 6, 2012 General Election. Committee to Elect Debbie Ponte for Supervisory 2012 was her candidate-controlled committee. Robin Fleming was the Committee's treasurer. The Committee, Ponte, and Fleming failed to timely file seven semiannual statements covering the reporting periods of January 1, 2013 through June 30, 2016, in violation of Government Code 84200 (7 counts). **Total Proposed Penalty: \$1,488.**

**13. In the Matter of Kenneth M. Foley for Superior Court Judge 2014 and Kenneth Foley; FPPC No. 16/642 (Streamline Settlement).** Staff: Commission Counsel Theresa Gilbertson and Program Specialist Grant Beauchamp. Kenneth Foley unsuccessfully ran for Superior Court Judge in Calaveras County in June 3, 2014 Primary Election. Foley was the Committee's treasurer. The Committee and Foley failed to timely file one prelection campaign statement covering the reporting period of March 18, 2014 through May 17, 2014, in violation of Government Code Section 84200.5 (1 count); and failed to timely file one semiannual campaign statement covering the reporting period of May 18,

2014 through June 30, 2014, in violation of Government Code Section 84200 (1 count).  
**Total Proposed Penalty: \$446.**

#### **Statement of Economic Interests Non-Filer**

**14. In the Matter of Aaron F.B. Medina; FPPC No. 16/19737.** Staff: Commission Counsel Christopher Burton, Political Reform Consultant Teri Rindahl, and Staff Services Analyst Katie Trumbly. Aaron F.B. Medina, a former Commissioner of the California Travel and Tourism Commission, failed to timely file his 2015 and 2016 Annual Statements of Economic Interests, in violation of Government Section Code 87300 (2 counts). **Total Proposed Penalty: \$2,000.**

**15. In the Matter of Karl Jacobson; FPPC No. 16/31 (Streamline Settlement).** Staff: Commission Counsel Ruth Yang and Political Reform Consultant Teri Rindahl. Karl Jacobson, a board member of the Orchard School District, failed to timely file his 2014 Annual Statement of Economic Interests with the County of Santa Clara, in violation of Government Code 87300 (1 count). **Total Proposed Penalty: \$200.**

**16. In the Matter of Kirk Brown; FPPC No. 18/136 (Streamline Settlement).** Staff: Chief of Enforcement Galena West and Political Reform Consultant Chloe Hackert. Kirk Brown, as a Board Member of the Freewater County Water District, failed to timely file his Assuming Office Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Total Proposed Penalty: \$200.**

#### **Default Proceedings**

##### **Default Proceedings Requesting Commission Action**

**17. In the Matter of Brenda Lewis and Lewis for Water Board 2013; FPPC No. 16/322 (Default Decision – Final Notice).** Staff: Commission Counsel Theresa Gilbertson and Associate Governmental Program Analyst Dominika Wojenska. Brenda Lewis was the successful candidate for the Monterey Peninsula Water Management District Board of Directors. Lewis for Water Board 2013 was her candidate-controlled committee. The Committee and Lewis failed to timely file seven semiannual campaign statements covering the reporting periods of October 21, 2013 through December 31, 2016, in violation of Government Code Section 84200 (7 counts). **Total Proposed Penalty: \$28,000.**

##### **Notice of Intent to Present Default Decision and Order at Next Commission Meeting**

**18. In the Matter of Al Bairos and Committee to Re-elect Al D. Bairos OID Director District #4 2015; FPPC No. 15/1876 (Default Decision – Initial Notice).** Staff: Assistant Enforcement Chief David Bainbridge, Special Investigator Garrett Micheels, and Associate Governmental Program Analyst Dominika Wojenska. Al Bairos was an unsuccessful candidate for re-election to the Oakdale Irrigation District in the November

3, 2015 General Election. Re-elect Al D. Bairos OID Director District #4 2015 was his candidate-controlled committee. The Committee and Bairos failed to disclose contributions and expenditures, in violation of Governmental Code Section 84211 (1 count); and failed to file two semiannual campaign statements covering the reporting periods of June 1, 2015 through June 30, 2017, in violation of Government Code Section 84200 (4 counts) and failed to include a proper disclaimer on a mass mailing, in violation of Government Code Section 84305, subdivision (a) and Regulation 18435, subdivision (d) (1 count). **Total Proposed Penalty: \$16,000.**

**19. In the Matter of Roberto Reyes; FPPC No. 16/160 (Default Decision – Initial Notice).** Staff: Commission Counsel Theresa Gilbertson and Associate Governmental Program Analyst Dominika Wojenska. Roberto Reyes served as a Planning Commissioner for the City of Richmond. Reyes failed to timely file his 2014 Annual Statement of Economic Interests, in violation of Government Code Sections 87200 and 87203 (1 count). **Total Proposed Penalty: \$3,000.**

### **General Items 20-27**

**20. Enforcement Review.** Staff Adam Silver. In its February 2018 meeting, the Commission voted to proceed with a review of its Enforcement priorities and processes and the creation/revision of an Enforcement Procedures Manual that will be maintained up to date and be made public through the FPPC's website. At its March 2018 meeting, the Commission intended to discuss and vote on [i] alternative methods of conducting, or causing to be conducted, this review, [ii] the nature and extent of the process review (its scope), and [iii] any instructions or next steps for commencing the review. After discussion and the receipt of public comment, the Commission postponed voting on such decisions to allow for the conduct of an Interested Persons Meeting that would allow for public discussion on these issues. The Interested Persons Meeting is scheduled for May 9, 2018. Commissioner Audero has requested that, to assist in May Commission meeting discussion, Commission staff create a detailed summary of that Interested Persons meeting and make it available for review and discussion at the May 2018 Commission meeting. Staff has confirmed that such will be provided. Summaries provided by the public through the public comment process also are welcome but not required. At its May 2018 meeting, the Commission invites public comment on, and will continue the discussion of, these issues and, if appropriate, will vote on the method of the Enforcement Process review, its scope, and the issuance of instructions (and deadlines as necessary) regarding next steps for commencing the review process, including but not limited decisions regarding the composition of the work group that will effectuate this process/priorities review.

**21. Closure letters in Enforcement** Staff: Zachary Norton. Commissioner Audero's requested agenda description: "During the January 2018 Commission meeting, specifically during the discussion of the Lucan matter, the question arose whether Commissioners have the authority to set aside a closure letter. Specifically, the question was whether the Commissioners could instruct the Enforcement Division to re-write all

or part of a closure letter with language that the Commissioners would approve, or otherwise rescind and issue it with that language. Our Legal Division did not weigh in during our discussion last month and the question was left unanswered. The Legal Division will present an impartial legal memorandum to the Commission with an answer to this question, including (1) legal authorities to support any position taken, if any; (2) an analysis of how to interpret the absence of legal authorities if that is the case; and (3) a recommendation on how to proceed in future similar circumstances with an explanation of whether that recommendation was reached based on the law or on best practices. In addition, we will take public comment on the issue. Based on this the Commission will vote on whether to adopt the recommendation of the legal division as a go forward procedure, adopt another go forward procedure, or send this matter to the Attorney General's office requesting a formal opinion. This is an agenda item for FORMAL ACTION.”

### **Staff Memo**

- 22. Letter Regarding Closure of Eric Lucan Matter, Case 16/284.** Depending on the action taken by the Commission, if any, on agenda item 21, the Commission will review the language of the closure letter in the Lucan matter, matter 16/284, and will consider and vote on whether, and if so, how, to amend that letter consistent with the action on agenda item 21.

### **Eric Lucan Closure Letter, Case 16/284**

- 23. Advice Letter A-18-002, Conflicts of Interest.** On April 27, 2018, Eric Lucan sent an email addressed to all Commissioners regarding an advice letter he received. The advice letter and his email are on the agenda for discussion and to take formal action should the Commission decide formal action is necessary.

### **Eric Lucan Email**

- 24. Commissioner Compensation.** Staff: Matthew Christy. At its February 2018 Commission Meeting, the Commission moved to request that the Attorney General's Office review its 1977 advice letter and let the Commission know if the advice is still applicable in light of the language and Wage Order 4-2001, which provides that the California minimum wage law applies to state employees as of January 1, 2001. Staff has prepared a memo as required under opinion request process.

### **Staff Memo**

- 25. Legislative Update and Staff Recommendation for Commission Position on Legislation.** Legislative and External Affairs. Phillip Ung, Director.

### **Staff Memo**

**26. Executive Staff Reports.**

Enforcement Division. Galena West, Enforcement Chief  
Legal Division. Brian Lau, Acting General Counsel  
External Affairs and Education. Courtney Miller, Manager  
Executive Staff Update. Erin Peth, Executive Director

**27. 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).)

Below is a list of items currently pending for future agendas and the Commissioners who requested them.

- (Hayward and Audero) Solicit Attorney General’s opinion to clarify some of the advice provided by deputies attorney general at a presentation on the Bagley-Keene Open Meeting Act.
- (Hayward) Review the feasibility of holding a future Commission meeting in a location other than Sacramento.