



(Unapproved and subject to change)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Thursday, June 17, 2021
10:00 a.m.

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

Staff Present: Galena West, Executive Director
Angela Brereton, Chief of Enforcement
Dave Bainbridge, General Counsel
Loressa Hon, Chief of Administration
Lindsey Nakano, Legislative Counsel
Toren Lewis, Commission Counsel
Sasha Linker, Commission Assistant

Call to Order.

Chair Miadich called the meeting to order at 10:01 AM.

- 1. Public Comment for Items not on Agenda.**
- 2. Approval of May 2021 Commission Hearing Minutes.**

MOTION: To approve the May 2021 meeting minutes. Moved by Commissioner Baker, seconded by Chair Miadich. Motion approved 5-0.

3-5. Approval of Enforcement Consent Calendar.

Angela Brereton, Chief of Enforcement, stated that the factors for the stipulation in item five look different because it is an older stipulation and does not follow the updated formatting but does include all the factors that would have been included in the revised formatting. Commissioner Wood asked why counts one and two were split. Ms. Brereton stated that the counts were split in order to align with the comparable case they were using.

MOTION: To approve items 4-5. Moved by Commissioner Wilson, seconded by Commissioner Cardenas. Motion approved 5-0.

Ms. Brereton discussed the steps staff has taken since item three was brought before the Commission in April 2021. Commissioner Baker asked if it is a part of the Enforcement process to refer a case to the prosecutor's office for their own investigation if there were misdemeanor or felony behavior. Ms. Brereton stated that there is a standard list of violations that they automatically refer to law enforcement agencies and DA offices which happens at intake.

MOTION: To approve item 3. Moved by Commissioner Cardenas, seconded by Commissioner Baker. Motion approved 5-0.

Ms. Brereton stated that they were in sporadic communication with the respondent listed for pre-notice default and are hoping for compliance through the filing otherwise the item will return in July.

7. Presentation on the Origins and History of the Political Reform Act of 1974.

Bob Stern, Former FPPC General Counsel, presented on the origin of the PRA and discussed the things he would change today. Mr. Stern believes the lobbyist gift limit should be zero dollars instead of the \$10 it is today because lobbyist quickly found a way to combine the limit. Second, instead of dividing enforcement responsibilities across multiple agencies, Mr. Stern believes all auditing and campaign reporting should happen at the FPPC.

Commissioner Wood asked what amendments Mr. Stern would make to the Act today. Mr. Stern believes the biggest concerns are the United States decisions that limited the Act.

Commissioner Baker asked Mr. Stern if there were any areas regarding statement of economic interests and disclosures that he would change and if there was anything in the Act that he would change to appropriately distinguish between those who comply and those who maliciously are non-compliant within Enforcement cases. Mr. Stern stated he believes the public might benefit if legislators and public officials had an annual net worth statement and for enforcement, he recommends focusing on the more serious offenses, and possibly utilizing larger punishments to motivate greater compliance.

Chair Miadich asked if Mr. Stern foresaw the creation of the campaign lawyer industry. Mr. Stern stated that he did anticipate some of the outcomes but did not anticipate the increase of accountants due to how much funds campaigns would gain.

Commissioner Cardenas asked what a more robust, appropriate, and more responsive level of cooperation between the FPPC and LA City Ethics would look like. Mr. Stern stated that it would be beneficial for them to have meetings and communicate with staff regularly.

Galena West, Executive Director, noted that they do engage in several events and in communication with various ethics agencies, including LA City Ethics.

8. Prenotice Discussion of Amendments to Regulation 18435.5, Reporting an Expenditure for Paid Online Communications; Amendments to Regulation 18450.4., Video and Television Advertisement Disclosure; and proposed new Regulation 18450.9, Website Advertisements and Third-Party Social Media Advertisements.

Toren Lewis, Commission Counsel, went through the potential changes to each regulation presented.

Chair Miadich stated that adding definitions for the regulation would be useful. Mr. Lewis stated that some terms may be too broad and cause some terms to not be included.

Chair Miadich suggested removing the amplification portion from the regulation and proceed with it as a stand-alone regulation.

Commissioner Baker and Commissioner Wood both showed concerns on the definitions and terminology regarding online communications that may overlooked or excluded in the regulations.

Commissioner Baker asked if there were any alternatives to disclose the information regarding who interacted with the post. Mr. Lewis stated that they have not considered too many iterations of that information.

Commissioner Wilson discussed the relatively cheap nature of purchasing bots and wondered if those purchases would ever trigger disclosure.

9. In re Henning – Bray Opinion.

Mr. Bainbridge stated that the issue concerns when a communication by a public agency qualifies as

a campaign expenditure or contribution which therefore must be reported under the act. Mr. Bainbridge stated that the specific issue the requestors are asking about is whether the regulation creates a prohibition on use of certain communications by public agencies.

MOTION: To approve the opinion. Moved by Chair Miadich, seconded by Commissioner Baker. Motion approved 5-0.

10. Committee Updates.

Chair Miadich stated Law and Policy Committee had a preview on the prenotice regulations on online disclosures, and an update from the legislative counsel Ms. Nakano. For July they will receive a report back from staff on behested payments and information from staff about reoccurring contributions. During the Public Outreach and Technology Committee meeting, Mr. Wierenga and Mr. Crabtree reported back on the work being performed on updating the website.

11. Legislative Update.

Lindsey Nakano, Legislative Counsel, gave updates to legislation outside her report. AB 236 was ordered to the inactive filed by the author on June 3, and SB 686 will be moving forward as the vehicle for the commission's proposal on LLC disclosure.

SB 686 passed in the Senate 32-6, with bipartisan support. The bill has been set for hearing in the Assembly Elections Committee on June 30th. There may be amendments on the look back period and the monetary threshold.

AB 378, to remove gender neutral language, was heard in the Senate Judiciary Committee and passed on consent. AB 1367, increasing penalties for egregious personal use of campaign funds, passed in the Assembly 78-0 with bipartisan support, and will likely be heard in the Senate Elections Committee in mid-July but has not been officially set for hearing yet. AB 1590 passed in the Assembly last month and was referred to the Senate Elections Committee.

Ms. Nakano discussed the self-imposed 12 bill limit in the legislature this year and stated Legislators were starting to slim their packages down. AB 975 was ordered to the inactive file. AB 40 was also

ordered to be inactive file by the author.

SB 752, relating to disclosure requirements for electronic ads, passed in the Senate 35-0.

Chair Miadich asked if there is an opportunity for SB 752 to amend the gap in 84504.3H. Ms.

Nakano stated that she had communicated with the authors and they have expressed their willingness

to make those amendments. Commissioner Wilson asked if they would be able to see the

amendments if they are submitted. Ms. Nakano stated that she would share the amendments after

they have been submitted. Chair Miadich asked when the bill will have the amendments in print. Ms.

Nakano stated that the bill is set for June 30th and the committee typically asks for amendments

earlier in the week prior to the meeting.

12. Executive Staff Reports.

Ms. Brereton stated that staff have provided responses regarding the number of AdWatch submissions received and the breakdown of referrals received. Ms. Brereton stated they did use discretion under Regulation 18360.2 in streamline regulations to exclude violations in case 18/248 because the total penalty exceeds the amount that would be paid in a mainline stipulation.

Mr. Bainbridge stated they will be breaking off the issue of amplification and it will come back for pre-notice in the August meeting. In September they plan on adding a regulation project that would provide express permission to agencies to receive forms electronically. Commissioner Baker asked if staff will also look into receiving forms electronically for other disclosure reports. Mr. Bainbridge stated that they have been in communication with local agencies to look into other possibilities.

Ms. West invited Jay Wierenga, Communications Director, to speak about his project to partner with Laney College to have special media videos created that will start in August.

13. Commissioner Comments and Proposed Future Agenda Items.

Commissioner Baker would like to hear a discussion on the budget once it is available.

MOTION: To adjourn the meeting. Moved by Chair Miadich, seconded by Commissioner Baker. Motion approved 5-0.

The meeting concluded at 12:13 PM.

Respectfully Submitted,
Sasha Linker
Commission Assistant
Approved July 2, 2021

Richard C. Miadich, Chair
Fair Political Practices Commission