



(Approved January 18, 2024)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Thursday, November 16, 2023
11:00 a.m.

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

Staff Present: Galena West, Executive Director
James M. Lindsay, Chief of Enforcement
Brian Lau, Assistant General Counsel
Shrdha Shah, Chief of Audits and Assistance
Loressa Hon, Chief of Administration
Lindsey Nakano, Senior FPPC Legislative Counsel
Julianna Contreras, Commission Assistant

Call to Order.

Chair Miadich called the meeting to order at 11:05 a.m.

1. Public Comments for items not on the agenda.

2. Approval of Commission Meeting Minutes.

MOTION: To approve the October 2023 meeting minutes. Moved by Commissioner Baker; seconded by Chair Miadich. The motion passed 5-0.

3 – 6. Consent Calendar.

Commissioner Ortiz requested agenda item #6 be removed for discussion. Commissioner Baker requested agenda item #4 be removed for discussion.

MOTION: To approve item 3 In the Matter of City Campbell, FPPC No. 17/125, and item 5 In the Matter of Anna Song, FPPC No. 20/950. Moved by Commissioner Ortiz; seconded by Commissioner Baker. The motion passed 5-0.

4. In the Matter of Bill Brough, FPPC No. 19/963.

Commissioner Baker asked about the maximum penalty the FPPC could approve as a breach of a default agreement. James Lindsay, Chief of Enforcement, clarified the maximum under the default is \$100,000.

The Chair and Commissioners agreed to increase the maximum penalty for every count since Mr. Brough

intentionally misused campaign funds for personal gain. Chair Miadich added to the discussion to collect 100% of the default using the newly adopted Collections Procedure.

MOTION: Motion to modify the proposed default to increase the penalties for Counts 11- 20 from \$4,000 to \$5,000 each, totaling a default amount to \$100,000. Secondly, the FPPC directs the Executive Director to pursue the new Collections authority to make this a priority matter for Collections purposes and to pursue all means at the Executive Director's disposal to ensure the FPPC recovers the full measure for this default. Moved by Chair Miadich; seconded by Commissioner Baker. The motion passed 5-0.

6. Adoption of the 2023/2024 Statement of Economics Interests, Form 700.

Commissioner Ortiz asked for clarification about Special Districts and whether they should be filing a Form 700. Chloe Hackert, Education & External Affairs Unit Manager, clarified that it depends on whether the agency has a Conflict of Interest Code and which positions are designated in the code. If Special District filers are enumerated in a Conflict of Interest Code, they will be filing under Section 87300. The FPPC form instructions to which Commissioner Ortiz is referring includes information for 87200 filers, candidates, and state officeholders. Ms. Hackert also explained the difference between Sections 87300 and 87200. Assistant General Counsel Brian Lau clarified that on page 3 of the reference pamphlet, paragraph two, it includes information on code filers and that any filer included in the code would be required to file pursuant to their agency's Conflict of Interest Code.

MOTION: To approve SEI Form 700. Moved by Chair Miadich; seconded by Commissioner Ortiz. The motion passed 5-0.

7. Motion to Vacate Default Decision and Order, In the Matter of Jose Pech; FPPC No. 19/1407.

Brian Lau, Assistant General Counsel, presented to the Commission the Motion to Vacate Jose Pech's default decision and order. James Lindsay, Chief of Enforcement, summarized the case and expressed that the motion was procedurally and substantively defective since it was too late for consideration and failed in substance. Commissioner Wilson requested a response to Mr. Pech's allegations and elaboration of why it is important to file the SEI upon leaving office. Mr. Lindsay responded that, in this case, there was a Conflict-of-Interest Code that incorporated his position before he left office, and he did not file the SEIs in a timely manner, which is important to disclose his interests, especially here where a conflict of interest

was the result. Commissioner Wood asked if there was a miscommunication between the City of Oxnard and the respondent for not informing him of the importance of filling out SEIs. Mr. Lindsay responded that there was no evidence indicating that in this case and there are significant educational efforts for filing officers regarding the required forms and documents.

Motion: To Deny the Motion to Vacate the Default Decision and Order, Jose Pech, FPPC No. 19/1407. Moved by Chair Miadich, seconded by Commissioner Wood. Motion Denied 5-0.

8. Proposed Amendment to Regulation 18202, Definitions. Quasi-Legislative Administrative Action.

Valerie Nuding, Commission Counsel, presented an overview of the proposed amendments to Regulation 18202. Commissioner Ortiz asked for clarification regarding whether the actions of the Redistricting Commission are quasi-legislative because it is a statewide agency. Ms. Nuding clarified that based on the courts, actions are quasi-legislative if they adopt rules based on broad public policy, which applies to the Redistricting Commission (“CRC”). Commissioner Ortiz asked if that meant rules surrounding local lobbying would also fall under the new regulation. Ms. Nuding clarified that the FPPC only has the authority to regulate statewide lobbying, and local governments are free to make their own rules, but the regulation does not apply to local lobbying. Commissioner Wilson asked if the FPPC has the authority to adopt similar regulations applicable at the local level regarding Citizens Redistricting Commissions. Brian Lau, Assistant General Counsel, confirmed the FPPC does not have the authority under the Political Reform Act to contact local Lobbying. Commissioner Baker added to the discussion by suggesting staff reach out to the State Auditor to educate people volunteering for the CRC in the future.

Motion: To approve amendments to Regulation 18202. Moved by Chair Miadich, seconded by Commissioner Wilson. The motion passed 5-0.

9. Potential Regulation Projects in 2024.

Brian Lau, Assistant General Counsel, presented the upcoming proposal for the 2024 calendar. Various proposals were presented during the Law & Policy meeting held in November. The proposal was discussed, and the full Commission was asked for additional ideas. Mr. Lau reviewed each proposal and

answered questions, and discussed feedback raised during the Commissioner's and Law & Policy meetings.

During the discussion of the regulatory proposal regarding the honoraria ban, Commissioner Baker asked if a determination was made as to what we can do by regulation and what needs to be a legislative change. Chair Miadich agreed that this includes a discussion of what the Commission has authority to do through a regulation, and we can revisit the legislative route if needed later.

Chair Miadich asked if the Commission has the authority to remove entities audited by local ethics agencies from the draw results for mandatory audits. Mr. Lau affirmed that we do have that authority to further the purposes of the Act.

Commissioner Baker would like to make sure the comment letter that was submitted will be discussed as well and asked if, in January would the Commission hear the regulation that has already been prenoticed as well. Mr. Lau said it would be together. Chair Miadich clarified that the regulation the Commission has already seen for prenotice has two issues regarding the same statute as the subsequent election language, but it is a third and different issue. The Commission had an Interested Persons' meeting in October and instructed staff to brief the Commission on the regulatory and statutory history and options regarding subsequent election. Since they are the same areas, we will delay the first two issues until the third is ready to be included if it is appropriate.

The list of proposed regulation projects will be will be presented at the January Commission Meeting.

11. Legislative Update.

Lindsey Nakano, Senior FPPC Legislative Counsel, presented legislative proposals for 2024. Several questions were asked related to the proposals during the meeting, and the Commissioners provided feedback and different perspectives on the bills.

During the discussion of the minor and clean up proposal to redact street names and building numbers for committees and individuals, Chair Miadich asked what the purpose of reporting the address of a committee making a contribution to another committee when you have the committee identification number. Ms. Nakano stated that it is the general rule that applies to everyone. Commissioner Baker asked

generally why P.O. Boxes are not allowed. Ms. Nakano stated that since they are committees, then they have more information available. Commissioner Wood discussed that there is a public transparency benefit to retaining street address information, or other neighborhood-specific information, for committees and donors on the public versions of campaign reports and statements. Commissioner Wilson suggested possible alternate ways to report location information. Commissioner Baker asked if there is any way to be more specific for larger cities. Commissioner Wood would like to know whose campaign statements would be subject to this and what the source of the threats to public officials is. Ms. Nakano stated that the campaign statements are at all levels, and the source of the threat information is the legislature. Commissioner Wood points out that the zip code is not enough information to know specifically where something is located, like a school district, so the information about the donor base is missing, and you would not be able to see neighborhoods. Commissioner Wood also points out the actual number of harassment cases of donors is very low. Chair Miadich wants to know how many voters look up their candidates' specific addresses to determine how to vote. Commissioner Baker made the point that protecting public officials is important even without data showing an increase in threats, but on the other side, most addresses are available on-line elsewhere.

Commissioner Baker endorsed adding looking into the authority to regulate local lobbying of redistricting committees as suggested by Commissioner Wilson and reminded Ms. Nakano of the goal of having bipartisan authors. Commissioner Baker also noted that the tribal government income bill should be carefully applied to not create a loophole. Commissioner Baker also noted that minimal lobbying audits were performed by the Franchise Tax Board and would suggest the lobbying bill be our number one priority, given the importance of those audits.

Chair Miadich clarified that the tribal government income rules will be based on the Government Code 1090 criteria that already exist.

Commissioner Ortiz asks what happens if we do not receive the money to complete the lobbying audits. Executive Director West noted that the legislation when passed has gone through appropriations to make

sure the funding is available. If not, we would continually request the funding until the state is in a position to grant it.

Commissioner Wilson stated the frustration that you cannot find Statements of Economic Interest at every level and cannot track who filed. Chair Miadich asked if we should mandate posting of locally filed SEIs. Commissioner Wilson said it would make sense to be able to access SEIs online in a way that is more accessible to the public. Ms. Nakano to look into adding this idea to the existing proposals.

MOTION: To adopt the Legislative package proposal. Moved by Commissioner Baker; seconded by Chair Miadich. The motion passed 4-0. Commissioner Wood abstained.

The meeting took a break from 12:52 PM to 1:32 PM.

10. Prenotice Discussion of Proposed Amendments to the Commission's Warning Letter, PREP, and Streamline Programs. Regulations 18360.1, 18360.2, and 18360.3.

Galena West, Executive Director, presented the pre-notice summary and amendments to Regulations 18360.1, 18360.2, and 18360.3. During the meeting, Executive Director West discussed proposed amendments and hypothetical theories to ensure more efficient application and updates to the current rules for Streamline, PREP, and Warning Letters. Commissioner Baker provided feedback regarding the word 'cooperative' and whether that reflects being timely in responses or settling early and noted that is something that could be looked into further. The proposed amendments will be presented at the next Commission meeting for adoption, along with the Commission's feedback.

12. Executive Staff Reports.

The Executive Staff Reports were accepted as submitted.

The Levine Act webinar was a success, and it was filled at maximum capacity. More available webinars will be available at a later date.

13. Commissioner Comments and Proposed Future Agenda Items.

Commissioner Baker requested a follow-up of a public comment received regarding harassment.

MOTION: To Adjourn the meeting. Moved by Commissioner Ortiz; seconded by Commissioner Baker. The motion passed 5-0.

The meeting adjourned at 3:15 p.m.

Respectfully Submitted,
Julianna Contreras
Commission Assistant
Approved January 18, 2024

Richard C. Miadich, Chair
Fair Political Practices Commission