



(Approved September 19, 2024)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Thursday, August 15, 2024
10:00 a.m.

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

Staff Present: Galena West, Executive Director
James M. Lindsay, Chief of Enforcement
Dave Bainbridge, General Counsel
Shrdha Shah, Chief of Audits and Assistance
Jue Wang, PhD, Chief of Administration
Lindsey Nakano, Senior FPPC Legislative Counsel
Jay Wierenga, Communications Director
Sasha Linker, Commission Assistant

Call to Order.

Chair Silver called the meeting to order at 10:00 a.m.

- 1. Public Comments for items not on the agenda.**
- 2. Approval of Commission Meeting Minutes.**

MOTION: To approve the June 2024 minutes Moved by Commissioner Ortiz, seconded by Commissioner Wilson. The motion passed 4-0.

3-6. Consent Calendar.

Item 4: In the Matter of Hallinan for Board of Equalization 2018, Hallinan for Supervisor 2020, Tom Hallinan, and Hannah Burcaw FPPC No. 20/861 was pulled from the consent calendar for further discussion.

Chair Silver asked if there was any public comment on the consent calendar items, 3, 5 or 6.

Daniel Ramos, the Respondent for item 6, In the Matter of Ramos for City Council 2018, Committee to Elect Daniel Ramos Adelanto City Council 2020, Daniel Ramos, Arley Arsineda; FPPC No. 19/464, gave public comment apologizing for making the mistake of filing late. Mr. Ramos discussed all the boards he is a member of and stated he has had to explain himself to each board. He asked for forgiveness and a

possibility that the fines could be reconsidered due to the large fine amount and expressed that he plans to run for office again during the next cycle.

Chair Silver responded by thanking him for his service and public comment. Chair Silver discussed the severity of the default, stating there wasn't just one report that was not filed but at least twenty statements and reports. Chair Silver stated it is helpful to have a campaign treasurer due to the complicated nature of some of the reporting.

Mr. Ramos stated that he had hired a campaign treasurer for his next campaign.

Commissioner Ortiz discussed Mr. Ramos's statement that he is a first-time candidate but stated the default clearly shows that he was a candidate in 2018 and 2020.

James Lindsey, Chief of Enforcement, gave an overview of the case and all communication attempts by the Enforcement Division to Mr. Ramos. Mr. Lindsay stated after the pre-notice default was on the agenda in June 2024, Mr. Ramos submitted some of the missing filings. Mr. Lindsay also noted there is evidence to believe the documents submitted do not capture all of the activity.

Chair Silver asked how many reports are still outstanding for Mr. Ramos. Mr. Lindsay stated that all the reports have been filed, but there are still outstanding tasks from Mr. Ramos, like closing his campaign bank account, and he believes the filings to be inaccurate.

Commissioner Wilson asked Mr. Lindsay to discuss comparable cases. Mr. Lindsay stated that the comps are for cases that had no filings submitted, and that is no longer where this case stands. He further discussed the significant public harm and the pattern of behavior from Mr. Ramos.

Commissioner Wilson asked who is liable for paying the penalty. After discussion, Mr. Lindsay reiterated that the individual or the committee could use campaign funds to pay the fine.

Commissioner Ortiz asked how to figure out expenditures when there is no bank account. Mr. Lindsay stated that there was a campaign bank account when Mr. Ramos ran in 2018 but not in 2020.

Commissioner Ortiz stated that there was clear knowledge about campaign bank accounts being required.

Commissioner Wood joined the meeting at 10:24 a.m.

Chair Silver asked why zero expenditures were listed on the recently submitted reports. Mr. Ramos stated that there have been no campaign expenditures to date which is why the reports state zero. Mr. Ramos then stated that he did fax information regarding the 2020 bank account to the Enforcement Division. Mr. Lindsay explained that there is evidence of expenditures and in-kind contributions that are not listed on the forms submitted by Mr. Ramos. Mr. Ramos insisted that the reports he filed disclosed all expenditures made in 2020

Commissioner Baker asked about the past practice in defaults and time given to Respondents to remedy the violations and then come back to the Commission if the Respondent did not fix the documents. She further asked whether violations found would be new violations or if they would be encompassed in the default. Mr. Lindsay stated any violations would be encompassed in the default.

Chair Silver asked if Mr. Ramos' most recent campaign and Statement of Economic Interests filings had been submitted. Mr. Ramos stated that they had.

Commissioner Wilson asked if there was evidence of personal use. Mr. Lindsay stated that there was not in the evidence that they were provided. And Mr. Ramos asked if he could provide the bank account information to the Commission today. General Counsel Bainbridge said the Commission should not consider outside evidence today to make this decision.

Chair Silver asked what the three options are for today- accepting the default, lower the fine amount, and send the default back for further negotiations. Mr. Lindsay stated the Commission can also raise the fine amount.

Commissioner Wilson would agree to return this to Enforcement but does not want to minimize Enforcement's efforts on this case up to now. He wondered if the penalty is too large.

Commissioner Baker expressed that she would be comfortable with a 30-day extension and would ask Enforcement to look at the fact that Mr. Ramos is taking responsibility and the amendments when considering the size of the fine.

Commissioner Wood agreed with Commissioner Baker but would give less time so this is wrapped up for next month's agenda.

Joy Jeanette, a resident of Adelanto, gave public comment speaking highly of Mr. Ramos and mentioned his countless hours of volunteering and service to those in need. Ms. Janette was shocked that there was a discrepancy between the information from Mr. Ramos and the FPPC and asked for more time on behalf of Mr. Ramos to provide proof of banking to lower the fines since it is not sustainable.

Bobby Camargo gave public comment on behalf of Pro Tem Mayor Daniel Ramos, stating Mr. Ramos has a good rapport with the community and is extremely transparent in his role. She further stated she does not believe Mr. Ramos is guilty of anything.

Micheal Guerrero, a resident of Adelanto, gave public comment speaking highly of the work Mr. Ramos has done as mayor.

Gabriel Reyes, a public commenter, spoke on behalf of Mr. Ramos, stating he believes Mr. Ramos has taken accountability for his mistakes. Mr. Reyes stated that the City of Victorville has never mentioned the rules or regulations when it comes to losing an election so Mr. Ramos would not have known the next steps. He asked that the fine be reduced.

Chair Silver asked how many additional hours of Enforcement resources would be needed if Mr. Ramos did submit the requested materials. Mr. Lindsay responded by saying it would depend on Mr. Ramos' materials that he provides and thinks 10-15 hours going through those materials. He suggested we could postpone the item until next month. Dave Bainbridge, General Counsel, stated that doing nothing would mean the item does not move forward, but creating a motion would document the direction given.

Commissioner Wilson said it would be best to be able to document this in the minutes and be able to look back on what was said.

MOTION: To postpone item 6 until next month's agenda with the direction to Mr. Ramos to provide all relevant information related to the allegations on this proceeding, including the bank account statements and any information requested by the Enforcement Division by August 23, 2024. Moved by Chair Silver; seconded by Commissioner Baker. The motion passed 5-0.

In discussing items 3 and 5, the remaining consent calendar items, Chair Silver mentioned how well done the stipulation for item five is, highlighting the impact that pre-election impermissible mass mailings can

have on the public and believes it is fined accordingly. Commissioner Wilson asked who would pay the penalty of \$22,000. Mr. Lindsay said it would be public funds.

MOTION: To approve items 3 and 5. Moved by Commissioner Ortiz; seconded by Commissioner Wilson. The motion passed 5-0.

Discussing item 4, Commissioner Baker stated the stipulation identifies this as a Commission audit and asked if it is the same as the random audits the FTB does or if this audit is initiated separately from the random audit. Executive Director West said FPPC does it by statute because the FTB is conflicted out from auditing the Board of Equalization. Commissioner Baker asked if there is an audit of one committee that was initiated and the respondent was involved in more than one committee, are the other committees automatically looked at or just the one being audited. Shrdha Shah, Chief of Audits and Assistance Division, answered that if someone is selected for an audit and is involved in multiple committees, the division would look at all the other open committees to see if another audit would be warranted.

Commissioner Baker pointed out ambiguity in the language and asked if there was intent to conceal. Mr. Lindsay replied that the activity did serve to mask, which does not necessarily create a conflict or indicate there was intent, but it did create difficulties in understanding what happened.

Commissioner Baker asked why the additional filings listed were aggravations and not separate charged counts. Mr. Lindsay stated that the account termination led to difficulties in investigating the violations. Commissioner Baker asked what role the need for additional investigative time played as a factor in the fine amount and expressed her concern with the language. Mr. Lindsay stated there were roadblocks in front of the Division and that is a factor in what is chosen to charge. Commissioner Baker clarified that the roadblocks were not put up in the course of the investigation but rather in the underlying facts that led to violations and stated she doesn't believe that a reason to charge a count. Mr. Lindsay stated the Division charges violations that are negligent versus intentional on a regular basis and this situation is not different from that.

Commissioner Wood agreed with Commissioner Baker that additional time spent investigating is not a reason to charge an additional count. Commissioner Wood also noted that the public harm is not clearly

stated for Count 3. In order to defend campaign rules and regulations, the public harm should be stated clearly.

Commissioner Wood also asked for clarification regarding the amounts and Chief Lindsay pointed out that some numbers are from the audit period, and some are from the period charged in the violation.

Commissioner Wood asked that this be written clearer in the future.

MOTION: To approve item 4. Moved by Commissioner Ortiz; seconded by Chair Silver. The motion passed 5-0.

7-9. Pre-Notice Defaults.

Mr. Lindsay discussed the pre-notice default process.

Commissioner Baker asked about item 7, stating that she noticed the Respondent has counsel and asked Mr. Lindsay to address her belief that default is for those who do not respond rather than those who don't like the settlement negotiations. Mr. Lindsay stated the default process is the same where a report in probable cause is served, there was an extension, an ex parte request was served, there was an order from a Hearing Officer, and there has not been a response and sometimes the Respondent not responding is for other reasons.

Commissioner Baker left the meeting at 11:41 a.m.

10. Assignment of Hearing to Administrative Law Judge (ALJ): In the Matter of City of Norco and Andy Okoro, FPPC No. 18-789.

Mr. Lindsay gave an overview of the administrative hearing process and discussed the next steps for the Commission on this item.

Chair Silver confirmed that all five Commissioners need to be in attendance if the Commission joins the ALJ. Galena West, Executive Director, stated at least three Commissioners must commit to attend from start to finish.

Chair Silver discussed the actions of the Commission after the administrative hearing where the Commission votes to accept the ALJ opinion or reduce the fine amount.

Commissioner Wilson asked why the City Manager was charged. Mr. Lindsay stated that the mailer had a personal appeal from the City Manager and caused the violation.

The Commission adjourned for break at 11:55 a.m. and reconvened at 12:47 p.m.

12. Pre-Notice Discussion of Proposed Amendment to Regulation 18534.

Kevin Cornwall, Senior Commission Counsel, presented his pre-notice regulation package.

Chair Silver asked if there were any instances of abuse or confusion with this rule in the context of the candidate committees. Mr. Cornwall was not aware of any, but the Auditing team or Enforcement Division might have some more insight of that, however, from his understanding the auditing team says that it is common to have multiple certificates of deposit, so he is unaware of the abuse happening. Chair Silver asked if Mr. Cornwall could clarify why we require that committees have all-purpose versus restricted-use accounts.. Mr. Cornwall explained that Section 85303 establishes these contribution limits for these types of committees, and the co-mingling makes it hard to track and can interfere with an auditing trail.

13. 2024/2025 Budget Act.

Jue Wang, Chief of Admin, presented the 2024/2025 Budget and added that the Department of Finance will collaborate with agencies to implement ongoing budget reductions for 2024 and beyond. However, specific details and numbers are not yet available.

Commissioner Ortiz asked if the amount of 19 million is a reasonable amount for the Commission and does the Commission have enough staff to meet the obligations of legislative proposals. Dr. Wang responded that there are a few legislative proposals with a fiscal attached and if the Governor signs them, the Budget Change Proposal process will start to increase staff to meet those new duties. Commissioner Wilson asked how that compares to just roughly the last fiscal Year's budget, what was the like 23/24 budget, how much of an increase is this proposed budget for 24/25. Dr. Wang said the budget increased due to some new positions and local ethic training. Commissioner Wilson asked if it was 18 million last year. Ms. Wang said yes, it was about that.

14. Legislative Update.

Lindsey Nakano, Senior FPPC Legislative Counsel, presented the PRA-related bills.

Chair Silver stated it would be helpful to run a hypothetical to see the differences between the Section 84308 bills, for example the difference in the use of “pending.” Ms. Nakano stated under SB 1243 that there is a component that the decision will come before an officer, which implies an agenda rather than just being a likely possibility. In addition, the definition of agent and the contribution limits are different. Chair Silver discussed the contribution limit of \$250 and stated the discussed options are to raise the limit to \$500 or create a floor of \$250 and allow local jurisdictions to raise the limit in their area. Chair Silver stated the latter option would be more difficult to enforce and advise on. He also noted that having the contribution limit lower than the gift threshold could be a problem.

Commissioner Baker returned to the meeting at 1:05 p.m.

Commissioner Wilson discussed the requirement of a 2/3rds vote on this bill and stated there is not an urgency clause so they would go into effect at the beginning of next year, so this election cycle is not under these bills. Ms. Nakano stated that is correct. Chair Silver discussed whether we could ask that an urgency clause be included. Ms. Nakano stated she would want to discuss whether the Legal Division is prepared to give advice on the bills should they go into effect sooner than January 1.

Commissioner Baker questioned whether the authors have asked the Commission to take a position and if it was time to weigh in on one of the bills. Ms. Nakano stated the authors have not asked but that staff has been working with Senator Glazer’s office more on amendments and staff is more comfortable with SB 1181. Commissioner Baker stated SB 1181 is a narrower change and also prefers that bill. Chair Silver stated there are still significant changes that could be presented between now and when the Governor signs the bills. Chair Silver asked what happens if the additional provisions are ones that the Commission objects to. Ms. Nakano stated a revised position letter could be submitted if that did happen. Mr.

Bainbridge stated the Chair has the ability to act on behalf of the Commission in between meetings.

Commissioner Baker stated that she is comfortable supporting SB 1181 or staying neutral. Chair Silver and Commissioner Wilson both expressed their discomfort with jurisdictions setting their own limit.

Commissioner Wilson expressed the desire to stay neutral. All agreed to stay neutral and instructed Ms.

Nakano to express their reservations with the moving contribution limits and the other issues identified with the bills.

Chair Silver asked Ms. Nakano to discuss the new AI bill that would require the FPPC to enforce it. Ms. Nakano described the bill and expressed staff's concerns about identifying when AI has been used in an advertisement and potential software costs. Chair Silver asked if the author's office has expressed any ideas for enforcement. Ms. Nakano said no. Chair Silver stated that he agrees with the spirit of the law but would need an effective enforcement mechanism.

11. No Action Closure Letters in Enforcement.

Mr. Lindsay presented the approved language for no-action closure letters.

Commissioner Baker discussed the news article in which a Respondent was able to take their closure letter and point to the language that states there was insufficient evidence and asked if the language in the specific letter was from the Commission direction. Mr. Lindsay stated no, the language was more customized to try to give a better understanding for the reason of the closure. Commissioner Baker asked for clarification regarding when the statute of limitations applied since the acts were on-going. Chief Lindsay said that they were separate acts so the repayments had different statutes of limitations.

Commissioner Baker asked if we currently audit legal defense fund committees. Chief Shah stated that we look at open committees for issues as she described earlier.

15. Executive Staff Reports.

The Executive Staff Reports were accepted as submitted.

Mr. Lindsay presented an update on the overall case load for the Enforcement Division, providing an update on the Enforcement Division directives. Commissioner Wilson asked how often we refer issues to district attorneys. Chief Lindsay said that Government Code Section 1090 requires it and we perform some joint investigations as well.

Chair Silver pointed out that it was great that through June and July 20% of the cases closed were through PREP. Mr. Lindsay stated that PREP helps a great deal and only referred seven individuals from the primary pre-election efforts.

Commissioner Baker asked if Mr. Lindsay could have more tools or law changes, what would that be and asked for an explanation of the trend of fewer mainline cases. Mr. Lindsay stated the opportunities for mainlines are slimmer as more are eligible for streamline and that the numbers are not down from last year. There just are not enough opportunities to have mainline stipulations.

Mr. Lindsay stated that he will be presenting again in January. Chair Silver said he would like to see some metrics to consider, would like to see more resources devoted to proactively pursuing mainlines and look at the possibility of using technology for that.

Mr. Bainbridge mentioned a typo within the report and stated the report will be updated.

Chloe Hackert, Manager of Education and External Affairs, presented an update on our Political Reform Education Program, stating that the program has grown consistently, and the number of completed courses is growing daily. 285 learners have successfully completed the program.

Jay Wierenga, Communications Director, gave an overview of the Commission's 50th anniversary event that will be held on September 11, 2024, at McGeorge School of Law.

Commissioner Wilson left the meeting at 2:41 p.m.

16. Commissioner Comments and Proposed Future Agenda Items.

MOTION: To Adjourn the meeting. Moved by Chair Silver; seconded by Commissioner Ortiz. The motion passed 4-0.

The meeting adjourned at 2:50 p.m.

Respectfully Submitted,
Sasha Linker
Commission Assistant
Approved September 9, 2024

Adam E. Silver, Chair
Fair Political Practices Commission