



FAIR POLITICAL PRACTICES COMMISSION

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(Unapproved and subject to change)

CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION

MINUTES OF MEETING, Public Session

Thursday, February 20, 2014

CALL TO ORDER

Vice Chair Eskovitz called the meeting to order at 10:00 am on February 20, 2014 at the Fair Political Practices Commission, 428 J Street, Sacramento, CA 95814.

Commissioners Tricia Wynne and Eric Casher were present. Vice Chair Sean Eskovitz and Commissioner Gavin Hachiya Wasserman were present by telephone.

Vice Chair Eskovitz opened the meeting and made a motion to have Commissioner Wynne handle the Commission Meeting since he was not present. Commissioner Casher seconded the motion.

Ayes: Vice Chair Eskovitz and Commissioners Wynne, Casher, Wasserman

The motion passed 4 to 0.

WELCOME

1. Public Comment

Commissioner Wynne opened the floor for public comment and there was none.

Executive Director Erin Peth addressed the Commission and congratulated former Chair Ann Ravel and Chief of Enforcement Gary Winuk for being honored with a California Lawyer Attorneys of the Year award.

Commissioner Wynne recognized and congratulated Tina Bass on her promotion to another agency.

CONSENT CALENDAR ITEMS 2 – 35

2. Approval of January 2014 Commission Meeting Minutes.

Commissioner Wynne pointed out one correction in the January 2014 Commission Meeting Minutes and requested that it be amended.

Commissioner Wynne opened the floor to the Commission to remove or discuss an item from the Consent Calendar.

Commissioner Casher removed Item 14.

Commissioner Wasserman stated he would like to remove Items 2 and 36 and stated he would like staff presentation on those items. Commissioner Wasserman also stated that during the past two meetings as well as this meeting, there are a few pro-active Enforcement matters, in which the gift giving entity, E.J. De La Rosa, was a client of his more than a decade ago. Commissioner Wasserman stated that he has discussed this issue with FPPC counsel and that he has no material interest in these matters and so does not need to recuse himself or remove them from the consent calendar.

Commissioner Wynne suggested that Commissioner Wasserman ask for staff presentation of items 2 and 36 without removing them from the consent calendar. Commissioner Wasserman agreed.

Commissioner Wasserman stated it was Item 3, not Item 2, that he would like to discuss.

Chief of Enforcement Gary Winuk addressed the Commission and provided background information on Item 3. Commissioner Wasserman asked for further information and Gary Winuk responded.

Gary Winuk addressed the Commission and provided background information on Item 36 and 37.

Commissioner Wynne clarified that Items 36 and 37 should not be on the consent calendar since they are informational.

Commissioner Wasserman commended the Enforcement Division for their work on these matters and also requested clarification on why they are considered informational items only and action is not necessary. Gary Winuk responded.

Commissioner Casher made a motion to approve the Consent Calendar with the exception of Item 14. Vice Chair Eskovitz seconded the motion.

Ayes: Vice Chair Eskovitz, Commissioners Wynne, Casher, Wasserman

The motion passed 4 to 0.

ENFORCEMENT MATTERS

Lobbyist Gifts and Contributions

3. In the Matter of Kevin Sloat and Sloat Higgins Jensen & Associates; FPPC No. 13/1201. Staff: Senior Commission Counsel Dave Bainbridge and Special Investigator Simon Russell. Respondent, Kevin Sloat is a registered lobbyist and the principal officer for Respondent lobbying firm, Sloat Higgins Jensen & Associates. Respondent Sloat hosted campaign fundraisers for state elective officers and candidates at his house where he provided items such as beverages, flower arrangements, and cigars that constituted non-monetary contributions to the campaign committees of the elective officers and candidates who benefitted from the fundraisers in violation of Government Code Section 85702 (26 counts). Further, Respondents Sloat and Sloat Higgins Jensen & Associates arranged for the making of gifts to two state legislators and a legislative official that exceeded the applicable gift limit in violation of Government Code Section 86203 (3 counts). Also, Respondents Sloat and Sloat Higgins Jensen & Associates made a gift to a state legislator that exceeded the applicable gift limit in violation of Government Code Section 86203 (1 count). **Total Penalty: \$133,500.**

Conflict of Interest

4. In the Matter of Shaun Coyne; FPPC No. 12/768. (Default Decision) Staff: Senior Commission Counsel Dave Bainbridge and Special Investigator Paul Rasey. Respondent, Shaun Coyne, while employed as the Chief Information Officer for State Compensation Insurance Fund, failed to timely report gifts of \$50 or more on his 2011 SEI in violation of Government Code section 87300 (1 count), received gifts from a single source that exceeded the applicable gift limit in violation of Government Code section 89503, subdivision (c) (1 count), and participated in making governmental decisions in which he knew or had reason to know he had a financial interest in violation of Government Code section 87100 (1 count). **Total Penalty: \$7,000.**

Campaign Reporting

5. In the Matter of Joe Yee, Friends of Joe Yee for City Council 2012, and Lynda Otto; FPPC No. 12/820. Staff: Senior Commission Counsel Dave Bainbridge and Special Investigator Simon Russell. Respondent, Joe Yee, ran for a seat on the Sacramento City Council in 2012. Respondent, Joe Yee for City Council 2012, was his campaign committee and Respondent, Lynda Otto, was the Treasurer for the committee. Respondents failed to timely disclose four in kind contributions over two campaign statement periods in violation of Government Code section 84211, subdivisions (a), (c) and (f) (2 counts) and failed to timely disclose the occupation and employer information of contributors for 60 contributions made over two campaign

statement periods in violation of Government Code section 84211, subdivision (f) (2 counts). **Total Penalty: \$7,000.**

6. In the Matter of Ronald Smith and Friends of Ron Smith; FPPC No. 13/208. Staff: Commission Counsel Adam Silver and Political Reform Consultant Teri Rindahl. Respondent, Ronald Smith, a current member of the West Basin Municipal Water District Board, and his candidate controlled committee, Friends of Ron Smith, failed to file a semi-annual campaign statement covering the period July 1, 2012, through December 31, 2012, due January 31, 2013, in violation of Government Code Section 84200, subdivision (a) (1 count). Respondents have a history of failing to timely file semi-annual statements. **Total Penalty: \$2,000.**

7. In the Matter of Elvia M. Rivas; FPPC No. 13/1332. Staff: Political Reform Consultant Adrienne Korchmaros. Respondent, Elvia M. Rivas, as an elected Member of the San Bernardino County Ontario–Montclair School Board, failed to timely file the short form campaign statements required to be filed by candidates who have no open committee. These statements cover the periods of calendar years 2011, 2012, and 2013 and are required to be filed with the San Bernardino County Elections Office. The failure to file these statements is in violation of Government Code Section 84206 (3 counts). **Total Penalty: \$600.**

8. In the Matter of Linda Gonzalez, Candidate and Treasurer, and Linda Gonzalez for West Valley Water District 2013; FPPC No. 13/1257. Staff: Political Reform Consultant Teri Rindahl. Respondents, Linda Gonzalez, Candidate and Treasurer; and Linda Gonzalez for West Valley Water District 2013, failed to timely file two campaign statements covering the periods January 1, 2013, through September 21, 2013, due September 26, 2013, and September 22, 2013, through October 19, 2013, due October 24, 2013, with the County of San Bernardino Registrar of Voters in violation of Government Code Section 84200.5 (2 counts). **Total Penalty: \$400.**

9. In the Matter of Council of Professional Organizations of Firefighters of Santa Clara County PAC and James Buessing; FPPC No. 13/ 1248. Staff: Political Reform Consultant Adrienne Korchmaros. Respondents, Council of Professional Organizations of Firefighters of Santa Clara County PAC and Treasurer, James Buessing, failed to timely file the campaign statement covering the period January 1, 2013, through June 30, 2013, due July 31, 2013, with the County of Santa Clara in violation of Government Code Section 84200 (1 count). **Total Penalty: \$400.**

10. In the Matter of Re-Elect Barbara Willibrand for High School Board 2013; Barbara Willibrand; Karen Neal; FPPC No. 13/1335. Staff: Political Reform Consultant Jeanette Turvill. Respondents, Re-Elect Barbara Willibrand for High School Board 2013; Barbara Willibrand; and her Treasurer, Karen Neal, failed to timely file the

campaign statement covering the period September 22, 2013, through October 19, 2013, due October 24, 2013, with the County of Los Angeles Clerk-Recorder in violation of Government Code Section 84200.5 (1 count). **Total Penalty: \$200.**

Lobbying Reporting

11. In the Matter of Heineken USA; FPPC No. 13/823. Staff: Legal Analyst Tracey Frazier and Law Clerk Liz Smutz. Heineken USA, a California lobbyist employer, failed to timely file four Reports of Lobbyist Employer (Form 635) between October 1, 2011, and December 31, 2012, disclosing total payments paid for lobbying services in the amount of \$49,000, in violation of Government Code Sections 86115, 86116, 86117, and 84605 (4 counts). **Total Penalty: \$4,000.**

Late Contribution Reporting

12. In the Matter of Supporters for a Better San Clemente, and Jeanne O’Grady; FPPC No. 10/1048. Staff: Commission Counsel Milad Dalju and Special Investigator Annaraine Diaz. Respondent, Supporters for a Better San Clemente, a city general purpose committee, and its Treasurer, Respondent Jeanne O’Grady, failed to report to the San Clemente City Clerk within 24 hours, a late contribution of \$2,111 that Respondent Committee made to a candidate-controlled committee on October 21, 2010, in violation of Government Code section 84203 (1 count). **Total Penalty: \$2,500.**

Major Donor

13. In the Matter of John Peck, Jr.; FPPC No. 13/1333. Staff: Political Reform Consultant Jeanette Turvill. Respondent, John Peck, Jr., Peck Enterprises, failed to timely file Form 461 Major Donor Committee Campaign Statement for 2013 in violation of Government Code Section 84200 (1 count). **Total Penalty: \$400.**

Statement of Economic Interests – Non-Reporting

14. In the Matter of Kevin Johnson; FPPC No. 13/871. Staff: Senior Commission Counsel Bridgette Castillo and Special Investigator Paul Rasey. Respondent, Kevin Johnson (“Respondent”), has been the Mayor of Sacramento from November 2008 until the present. As such, Respondent was required to file an Annual Statement of Economic Interests (“SEI”) disclosing all income and gifts received as required by the Political Reform Act. In this matter, Respondent received gifts of travel that exceeded the reporting threshold of \$50 in 2012, and failed to properly report the source of these gifts of travel on his 2012 Annual SEI, in violation of Government Code section 87203 (1 Count). **Total Penalty: \$1,000.**

Gary Winuk addressed the Commission and provided background information on Item 14. Commissioner Wasserman asked a clarifying question and Gary Winuk responded.

Commissioner Wasserman made a motion to approve Item 14. Commissioner Wynne seconded the motion.

Ayes: Vice Chair Eskovitz, Commissioners Wynne, Wasserman

Abstained: Commissioner Casher

The motion passed 3 to 0.

Statement of Economic Interests – Non-Filer

15. In the Matter of Travis Svensson; FPPC No. 13/1197. Staff: Commission Counsel Milad Dalju and Political Reform Consultant Adrienne Korchmaros. In this matter, Respondent, Travis Svensson, a member of the Department of Consumer Affairs Board of Registered Nurses Diversion Evaluation Committee since July 25, 2012, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$1,000.**

16. In the Matter of Jennifer LeSar; FPPC No. 13/807. Staff: Legal Analyst Tracey Frazier and Law Clerk Selena Farnesi. Respondent, Jennifer LeSar, as a consultant to the San Bernardino County Housing Authority, failed to timely file her 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

17. In the Matter of James Min; FPPC No. 13/1013. Staff: Political Reform Consultant Teri Rindahl. Respondent, James Min, Bright Star Secondary Academy Board Member, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

18. In the Matter of Robert McVicker; FPPC No. 13/1311. Staff: Political Reform Consultant Teri Rindahl. Respondent, Robert McVicker, Wells Standards Advisory Board Member, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

19. In the Matter of Kimberly Tran; FPPC File No. 13/1335. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Kimberly Tran, as a Pharmacist for the California Correctional Health Care Services, failed to timely file her 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

20. In the Matter of Camilo S. Guiang; FPPC File No. 13/1374. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Camilo S. Guiang, as a Physician for the California Correctional Health Care Services, failed to timely file her 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

21. In the Matter of Zahed U. Ahmed; FPPC File No. 13/1369. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Zahed U. Ahmed, as a Physician for the California Correctional Health Care Services, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

22. In the Matter of Mabrook Shehata; FPPC File No. 13/1355. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Mabrook Shehata, as a Physician for the California Correctional Health Care Services, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

23. In the Matter of Chancelor Daniel; FPPC File No. 13/1371. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Chancelor Daniel, as a Physician for the California Correctional Health Care Services, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

24. In the Matter of David C. Bonnheim; FPPC File No. 13/1376. Staff: Political Reform Consultant Jeanette Turvill. Respondent, David C. Bonnheim, as a Physician for the California Correctional Health Care Services, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

25. In the Matter of Kulbir Pummay; FPPC File No. 13/1352. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Kulbir Pummay, as a Health Services Administrator for the California Correctional Health Care Services, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

26. In the Matter of Richard S. Kornbluth; FPPC File No. 13/1358. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Richard S. Kornbluth, as a Physician for the California Correctional Health Care Services, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

27. In the Matter of Kenneth R. Erlenbusch; FPPC File No. 13/1378. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Kenneth R. Erlenbusch, as a Pharmacist for the California Correctional Health Care Services, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

28. In the Matter of William T. Savage; FPPC File No. 13/1343. Staff: Political Reform Consultant Jeanette Turvill. Respondent, William T. Savage, III, as a Physician for the California Correctional Health Care Services, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

29. In the Matter of Gina L. Casian; FPPC File No. 13/1380. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Gina L. Casian, as a Physician for the California Correctional Health Care Services, failed to timely file her 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

30. In the Matter of Robert G. Scharffenberg; FPPC File No. 13/1351. Staff: Political Reform Consultant Jeanette Turvill. Respondent, Robert G. Scharffenberg, as a Physician for the California Correctional Health Care Services, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

31. In the Matter of John Carroll; FPPC No. 14/010. Staff: Political Reform Consultant Adrienne Korchmaros. Respondent, John Carroll, as a Board Member for the City of Fullerton Transportation and Circulation Committee, failed to timely file the 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

32. In the Matter of Julie Kellner; FPPC No. 13/985. Staff: Political Reform Consultant Teri Rindahl. Respondent, Julie Kellner, ICEF Public Schools Board Member, failed to timely file her 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

33. In the Matter of Richard Riordan; FPPC No. 13/987. Staff: Political Reform Consultant Teri Rindahl. Respondent, Richard Riordan, ICEF Public Schools Board Member, failed to timely file his 2012 Annual Statement of Economic Interests covering the period January 1, 2012, through December 31, 2012, due April 2, 2013, in violation of Government Code Section 87300 (1 count). **Total Penalty: \$200.**

Proactive Non-Reporting Gift Cases

34. In the Matter of Deborah LeBlanc; FPPC No. 13/607. Staff: Political Reform Consultant Teri Rindahl. In this matter, Respondent, Deborah LeBlanc, as a Compton Community College District Board Member, failed to timely disclose gift(s) of: one meal valued at \$180.00 on her 2011 Statement of Economic Interests. All gifts were from E.J. De La Rosa & Co., Inc. and all omissions were in violation of Government Code Section 87207 (1 count). **Total Penalty: \$200.**

35. In the Matter of William McGee; FPPC No. 13/713. Staff: Legal Analyst Tracey Frazier and Law Clerk Rob Binning. In this matter, Respondent, William McGee, as the Vice President of the Hayward Unified School District Board of Education, failed to timely disclose gift(s) of: two meals totaling \$153.87 on his 2011 Statement of Economic Interests. All gifts were from E.J. De La Rosa & Co., Inc. and all omissions were in violation of Government Code Section 87207 (1 count). **Total Penalty: \$200.**

Informational Items – Disgorgement of Contribution – No Action Required 36-37

36. In the Matter of Americans for Responsible Leadership and Center to Protect Patients Rights; FPPC No. 12/784. Staff: Chief of Enforcement Gary Winuk and Program Specialist Bob Perna. On October 17, 2013, the Fair Political Practices Commission (“Commission”), in closed session, approved a civil settlement for the FPPC case Americans for Responsible Leadership (ARL) and Center to Protect Patient’s Rights (CPPR), imposing a penalty in the amount of \$1,000,000 for two counts (only one count applicable to ARL) of making a contribution in the name of another to the Small Business Action Committee (SBAC) and to the California Future Fund (CFF). Following the Commission’s approval, the Enforcement Division contacted SBAC and CFF and requested that they disgorge the contributions received, to the General Fund of the State of California, pursuant to Government Code section 85701. On January 24, 2014, the Enforcement Division entered into stipulated civil judgments, with SBAC and CFF for full payment of the required disgorgement. Additionally, the FPPC received a

payment of \$300,000 from SBAC towards their obligation. As required by law, the funds will be turned over to the General Fund of the State of California in connection with this matter.

37. In the Matter of Tim Do AKA Thinh Thien Do, Individually, and DBA Catering Food Supply; FPPC No. 10/740. Staff: Senior Commission Counsel Neal Bucknell and Special Investigator Beatrice Moore. On November 14, 2013, the Commission approved a Stipulation, Decision and Order in this case, which imposed a penalty in the amount of \$5,000 for one count of laundering money into the campaign account of Sacramento City Councilman Kevin McCarty, who was seeking election to the California State Assembly, 9th District, in 2009 and 2010. Thereafter, the Enforcement Division communicated with Councilman McCarty regarding his duty to return the laundered funds, totaling \$5,000, to the State of California pursuant to Government Code section 85701. On January 23, 2014, the Enforcement Division received full payment in this regard. As required by law, the disgorgement payment will be turned over to the General Fund of the State of California in connection with the complete resolution of this matter.

EXECUTIVE STAFF REPORTS ITEM 38

Legislative Report. Staff: Senior Commission Counsel and Legislative Coordinator, Sukhi Brar

Litigation Report. Staff: General Counsel, Zackery P. Morazzini

Legal Division Report. Staff: General Counsel, Zackery P. Morazzini

Enforcement Division Report. Staff: Chief of Enforcement, Gary Winuk

Technical Assistance Division Report. Staff: Chief of Technical Assistance Division, Lynda Cassady

Sukhi Brar addressed the Commission and provided a legislative update.

Commissioner Wasserman requested an update on the Commission's budget at the next meeting. Erin Peth responded and stated that since Tina Bass is leaving, the budget presentation may not be ready by the next meeting.

Zackery Morazzini notified the Commission that an Interested Persons Meeting has been scheduled regarding the real property materiality standards and he will be able to bring either an informational item or language for a vote to the next Commission Meeting.

Commissioner Wasserman encouraged public participation at the Interested Persons Meeting.

Commissioner Wynne stated that the Commission move into closed session to discuss Items 39 and 40 and will return to report any action taken.

CLOSED SESSION ITEM 39-40

Pending Litigation (Gov. Code § 11126(e)(1)). Deliberation upon:

39. In the Matter of Encinitas Project – Committee For Proposition A; Susan Turney; and Oliver Canler, FPPC No. 13/1031.

40. In the Matter of EncinitasElections.Com and Jim Kydd, FPPC No. 14/100.

The Commission returned from closed session and Commissioner Wynne opened the meeting.

Commissioner Wynne stated that the Commission approved the filing of stipulated judgments on Items 39 and 40.

Commissioner Casher made a motion to adjourn the meeting. Commissioner Wynne seconded the motion.

Ayes: Vice Chair Eskovitz, Commissioners Wynne, Wasserman, Casher

The motion passed 4 to 0.

The meeting adjourned at 10:48 a.m.

Respectfully submitted,

Dated:

Kelli Breton
Commission Assistant

Approved April 17, 2014

Sean Eskovitz, Vice Chair
Fair Political Practices Commission