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7

8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

9 **STATE OF CALIFORNIA**

10  
11 In the Matter of ) OAH No. 2019030096  
12 ) FPPC No. 15/003  
13 )  
14 ) **AMENDED COMPLAINANT'S**  
15 ) **ADMINISTRATIVE HEARING BRIEF**  
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In the Matter of )  
SUSAN G. SHELLEY, SUSAN )  
SHELLEY FOR ASSEMBLY 2013, and )  
SUSAN SHELLEY FOR ASSEMBLY )  
2014, )  
Respondents. )  
Hearing Date: **June 19, 2019 – June 21, 2019**  
Hearing Time: 9:00 a.m.  
Hearing Place: 320 W. Fourth Street, Suite 630  
Los Angeles, CA 90013

18 Complainant, the Enforcement Division of the Fair Political Practices Commission  
19 (“Commission”), submits the following hearing brief:

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1 **I. INTRODUCTION**

2 The evidence in this matter will establish clearly that Respondents Susan G. Shelley, Susan Shelley  
3 for Assembly 2013, and Susan Shelly for Assembly 2014 violated the campaign reporting requirements,  
4 and the evidence supports a finding that Respondents pay a moderate to high penalty for each count.

5 **A. The Parties**

6 Complainant is the Enforcement Division of the Fair Political Practices Commission, a state  
7 agency charged with the duty to administer, implement, and enforce the provisions of the Political Reform  
8 Act (the "Act").<sup>1</sup> Luz Bonetti, Commission Program Specialist II, is the Commission representative who  
9 will be present during the Administrative Hearing. Counsel appearing on behalf of the Commission will  
10 be Theresa Gilbertson, Commission Counsel.

11 Respondent Susan G. Shelley ("Shelley") was a candidate for State Assembly, 45<sup>th</sup> District, in a  
12 primary and general special election in 2013 and again in a regularly-scheduled primary and general  
13 election in 2014. Susan Shelley for Assembly 2013 ("2013 Committee") was Shelley's candidate-  
14 controlled committee for the 2013 special elections held on September 17, 2013 and November 19, 2013.  
15 Susan Shelley for Assembly 2014 ("2014 Committee") was Shelley's candidate-controlled committee for  
16 the 2014 elections held on June 3, 2014 and November 4, 2014. Complainant anticipates that Shelley, the  
17 2013 Committee, and the 2014 Committee will appear in *pro per*.

18 **B. The Exhibits: Side Tabs and Bottom Tabs**

19 Complainant's exhibits have been placed into binders for use at the hearing. In each binder, the  
20 exhibits are separated with numeric tabs that protrude on the right side. But some of these exhibits have  
21 exhibits of their own, referred to here as sub-exhibits. These sub-exhibits are separated with numeric tabs  
22 that protrude at the bottom. Throughout this brief, and at the hearing, decimal points are used to refer to  
23 all sub-exhibits. For example, the Accusation in this matter is being marked as the Complainant's  
24 Exhibit 2 for use at the hearing, and sub-exhibit 1 to the Accusation (which is the Order re: Probable  
25 Cause) will be referred to as Exhibit 2.1; sub-exhibit 2 to the Accusation (which is the Report in Support  
26

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27 <sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are  
28 to this code. The regulations of the Fair Political Practices Commission are contained in §§ 18110 through 18997 of Title 2 of  
the California Code of Regulations, and all regulatory references are to this source. See §§ 83111 and 83116.

1 of a Finding of Probable Cause) will be referred to as Exhibit 2.2; etc. Complainant has also included  
2 copies of documents designated for Official Notice in the binders. The documents included in the binders  
3 have been sequentially numbered (“Bates-Stamped”) for easy reference during and after the administrative  
4 hearing.

5 **C. The Dual Purpose of this Brief**

6 This brief serves two important purposes. First, it serves as a guide to the case before the hearing  
7 starts. Second, it serves as a guide to many of the important exhibits that will be introduced at the hearing,  
8 which allows this brief to be used as a reference during the hearing and after the hearing. So citations to  
9 exhibits are included, even though many of the exhibits will not be available to the Office of  
10 Administrative Hearings until after the hearing has started.

11 **D. Procedural History**

12 **1. Finding of Probable Cause**

13 On August 7, 2017, pursuant to Regulation 18361.4, subdivision (e), the Commission issued an  
14 Order Finding Probable Cause and to Prepare and Serve an Accusation in this case.<sup>2</sup>

15 The order included a finding that there is probable cause to believe that the 2013 Committee, the  
16 2014 Committee, and Shelley violated the Act as set forth in the Accusation.<sup>3</sup>

17 **2. Service of Accusation**

18 On August 15, 2018, the Enforcement Division provided the Accusation<sup>4</sup> and accompanying  
19 documents<sup>5</sup> to Shelley via email.<sup>6</sup> On August 16, 2018, Shelley acknowledged receipt of the Accusation  
20 and indicated that she wished to exercise her right to an administrative hearing.<sup>7</sup>

21 **3. Notice of Defense**

22 On August 20, 2018, Shelley served a Notice of Defense, requesting a hearing.<sup>8</sup>

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25 <sup>2</sup> Ex. 2.1

26 <sup>3</sup> *Ibid.*

27 <sup>4</sup> Ex. 2.

28 <sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> Ex. 3.



1 October 5, 2013 on or before October 10, 2013. Shelley and the 2013 Committee filed the pre-election  
2 statement for the September 1, 2013 through October 5, 2013 period in paper format on February 6, 2014  
3 and electronically on October 21, 2013. By failing to timely file this pre-election statement, Shelley and  
4 the 2013 Committee violated sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

5 **Count 3**

6 Failure to Timely File Pre-election Campaign Statement

7 As a result of Shelley appearing on the ballot in the November 19, 2013 Special General Election  
8 for the 45<sup>th</sup> Assembly District, Shelley and the 2013 Committee had a duty to file electronic and paper  
9 versions of a pre-election campaign statement for the reporting period of October 6, 2013 through  
10 November 2, 2013 on or before November 7, 2013. Shelley and the 2013 Committee filed the pre-election  
11 statement for the October 6, 2013 through November 2, 2013 period in paper format on February 6, 2014  
12 and electronically on January 31, 2014, 2013. By failing to timely file this pre-election statement, Shelley  
13 and the 2013 Committee violated sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

14 **2. Shelley and the 2014 Committee committed the following violations of the Act:**

15 **Count 4**

16 Failure to Timely File a Pre-election Campaign Statement

17 As a result of Shelley appearing on the ballot in the November 19, 2013 Special General Election  
18 for the 45<sup>th</sup> Assembly District, Shelley and the 2014 Committee had a duty to file electronic and paper  
19 versions of a pre-election campaign statement for the reporting period of September 1, 2013 through  
20 October 5, 2013 on or before October 10, 2013. Shelley and the 2014 Committee filed the pre-election  
21 statement for the September 1, 2013 through October 5, 2013 period in paper format on February 6, 2014  
22 and electronically on October 21, 2013. By failing to timely file this pre-election statement, Shelley and  
23 the 2014 Committee violated sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

24 **Count 5**

25 Failure to Timely File a Pre-election Campaign Statement

26 As a result of Shelley appearing on the ballot in the November 19, 2013 Special General Election  
27 for the 45<sup>th</sup> Assembly District, Shelley and the 2014 Committee had a duty to file electronic and paper  
28

1 versions of a pre-election campaign statement for the reporting period of October 6, 2013 through  
2 November 2, 2013 on or before November 7, 2013. Shelley and the 2014 Committee filed the pre-election  
3 statement for the October 6, 2013 through November 2, 2013 period in paper format on February 6, 2014  
4 and electronically on January 31, 2014. By failing to timely file this pre-election statement, Shelley and  
5 the 2014 Committee violated sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

## 6 II. SUMMARY OF THE LAW

7 All legal references and discussions of law pertain to the Act's provisions as they existed at the  
8 time of the violations in question.

### 9 **A. Importance of Liberal Construction and Vigorous Enforcement of the Act**

10 When enacting the Political Reform Act, the people of the state of California found and declared  
11 that previous laws regulating political practices suffered from inadequate enforcement by state and local  
12 authorities.<sup>12</sup> To that end, the Act must be liberally construed to achieve its purposes,<sup>13</sup> and provide  
13 adequate enforcement mechanisms so that the Act will be "vigorously enforced."<sup>14</sup>

### 14 **B. Intent of the Act**

15 There are many purposes of the Act, including ensuring that voters are fully informed and improper  
16 practices are inhibited by requiring committees to disclose all contributions and expenditures made  
17 throughout a campaign.<sup>15</sup>

### 18 **C. Controlled Committee Definition**

19 In 2013, a "committee" included any person or combination of persons who received contributions  
20 totaling \$1,000 or more in a calendar year.<sup>16</sup> This is commonly known as a "recipient committee." A  
21 recipient committee which is controlled by a candidate, or which acts jointly with a candidate in  
22 connection with the making of expenditures, is a "controlled committee."<sup>17</sup>

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25 <sup>12</sup> § 81001, subd. (h).

26 <sup>13</sup> § 81003.

27 <sup>14</sup> § 81002, subd. (f).

28 <sup>15</sup> § 81002, subd. (a).

<sup>16</sup> § 82013, subd. (a) (amended in 2016).

<sup>17</sup> § 82016, subd. (a).



1 **D. Candidates for Elective State Office**

2 Candidates for elective state office must open a committee for each specific office and are  
3 prohibited from re-designating committees.<sup>18</sup> Prior to soliciting or receiving contributions or loans, an  
4 individual who intends to be a candidate for elective state office shall file a statement of intent to be a  
5 candidate for that specific office.<sup>19</sup>

6 **E. Duty to File Pre-Election Campaign Statements**

7 In 2013, all candidates for offices being voted upon in elections not held in June or November of  
8 an even-numbered year, and their controlled committees, must file pre-election statements as follows: 1)  
9 For the period ending 45 days before the election, the statement must be filed no later than 40 days before  
10 the election; 2) For the period ending 17 days before the election, the statement must be filed no later than  
11 12 days before the election.<sup>20</sup>

12 For the September 17, 2013 Special Primary Election, the first pre-election statement was due on  
13 August 8, 2013 for the reporting period of January 1 through August 3, 2013, and the second pre-election  
14 statement was due on September 5, 2013 for the reporting period of August 4 through August 31, 2013.

15 For the November 19, 2013 Special General Election, the first pre-election statement was due on  
16 October 10, 2013 for the reporting period of September 1 through October 5, 2013, and the second pre-  
17 election statement was due on November 7, 2013 for the reporting period of October 6 through November  
18 2, 2013.<sup>21</sup>

19 **F. Multiple Committees**

20 When a candidate controls multiple committees, each of those committees must file pre-election  
21 statements when the candidate is on the ballot in an upcoming election.<sup>22</sup>

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26 <sup>18</sup> Reg. § 18521.

<sup>19</sup> § 85200.

<sup>20</sup> §§8400.5, subd. (c) (amended in 2016) and 84200.8, subd. (a) and (b).

<sup>21</sup> See Ex. 9.

<sup>22</sup> Reg. 18405.

1 **G. Filing Officer**

2 A filing officer is the office or officer with whom any statement or report is required to be filed  
3 under this title.<sup>23</sup> A candidate for state elective office shall file a campaign statement by online or  
4 electronic means, as specified in Section 84605, and shall file the original and one copy of the campaign  
5 statement in paper format with the Secretary of State (“SOS”).<sup>24</sup> The SOS shall maintain at all times a  
6 secured, official version of all original online and electronically filed statements and reports required.<sup>25</sup>

7 **H. Duty to File Statements Online**

8 A candidate for state elective office and his or her controlled committee must file campaign  
9 statements, reports, or other documents online or electronically when the total cumulative reportable  
10 amount of contributions received, expenditures made, loans made, or loans received is \$25,000 or more.<sup>26</sup>  
11 In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016,  
12 must be included.<sup>27</sup> Once a person meets the \$25,000 threshold and qualifies as an electronic filer, the  
13 person must file all following reports online or electronically.<sup>28</sup> Electronic filers must continue to file  
14 statements and reports in paper format, which is the official filing for audit and other legal purposes.<sup>29</sup>

15 **I. Candidate and Treasurer Liability**

16 Every committee must have a treasurer.<sup>30</sup> It is the duty of a committee’s candidate and treasurer to  
17 ensure that the committee complies with all of the requirements of the Act concerning the receipt and  
18 expenditure of funds and the reporting of such funds.<sup>31</sup> A committee’s candidate and treasurer may be  
19 held jointly and severally liable with the committee for any reporting violations.<sup>32</sup>

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23 <sup>23</sup> § 82027.  
24 <sup>24</sup> § 84215, subd. (a).  
25 <sup>25</sup> § 84605, subd. (g).  
26 <sup>26</sup> § 84605, subd. (a)(1).  
27 <sup>27</sup> § 84605, subd. (a)(1).  
28 <sup>28</sup> § 84605, subd. (d).  
<sup>29</sup> § 84605, subd. (f).  
<sup>30</sup> § 84100.  
<sup>31</sup> § 84100; Reg. 18427.  
<sup>32</sup> §§ 83116.5 and 91006; Reg. 18316.6.

1 **J. Mandatory Audit**

2 The Franchise Tax Board (“FTB”) audits legislative candidates in a special primary or special  
3 runoff election who raised or spent \$15,000 or more.<sup>33</sup>

4 **K. Penalty for Violations of the Act**

5 Each violation of the Act is punishable by imposition of a monetary penalty of up to \$5,000 per  
6 violation, which must be paid to the General Fund of the State of California.<sup>34</sup>

7 **L. The Burden of Proof in Administrative Hearings**

8 In a case such as this, the burden of proof rests upon the party making the charges.<sup>35</sup> The standard  
9 of proof is a preponderance of the evidence.<sup>36</sup> The phrase “preponderance of the evidence” is usually  
10 defined in terms of “probability of truth” or “more likely to be true than not true.”<sup>37</sup>

11 **M. Factors to be Considered by the Commission and Administrative Law Judge**

12 In framing a proposed order following a finding of a violation pursuant to Section 83116, the Fair  
13 Political Practices Commission and the administrative law judge shall consider all the surrounding  
14 circumstances including but not limited to: (1) The seriousness of the violation; (2) The presence or  
15 absence of any intention to conceal, deceive or mislead; (3) Whether the violation was deliberate,  
16 negligent or inadvertent; (4) Whether the violator demonstrated good faith by consulting the Commission  
17 staff or any other government agency in a manner not constituting a complete defense under Section  
18 83114, subdivision (b); (5) Whether the violation was isolated or part of a pattern and whether the violator  
19 has a prior record of violations of the Political Reform Act or similar laws; and (6) Whether the violator,  
20 upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.<sup>38</sup>

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25 <sup>33</sup> § 90001.

26 <sup>34</sup> § 83116, subd. (c).

27 <sup>35</sup> *Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99, 113; Evid. Code, § 115.

28 <sup>36</sup> Evid. Code, § 115.

<sup>37</sup> 3 Witkin Cal. Evid. Burden § 36.

<sup>38</sup> Reg. § 18361.5, subd. (d).

1 **III. SUMMARY OF THE FACTS AND EVIDENCE**

2 **A. FACTS**

3 Complainant will present the facts and evidence in this case through witness testimony, the  
4 submission of certified records from the SOS, and through submission of records maintained by the  
5 Commission.

6 **1. Background**

7 Shelley was a candidate for the 45<sup>th</sup> District of the California State Assembly during the 2014  
8 election cycle. She filed a candidate statement of intention on January 14, 2013, declaring her candidacy  
9 and voluntarily placing herself on the 2014 ballot for this Assembly seat.<sup>39</sup> In order to solicit and receive  
10 contributions to support her campaign for the Assembly, Shelley formed a candidate-controlled  
11 committee. She filed a Statement of Organization for a recipient committee with the SOS on February 20,  
12 2013, indicating that the committee qualified on February 8, 2013.<sup>40</sup> This committee, the 2014 Committee,  
13 was assigned a committee identification number by the SOS, number 1355796.<sup>41</sup>

14 In 2013, Robert Blumenfield, the occupant of the 45<sup>th</sup> District Assembly seat, won election to the  
15 Los Angeles City Council, 3rd District.<sup>42</sup> Thereafter, on July 2, 2013, the Governor proclaimed and  
16 ordered a special election to be held on November 19, 2013 to fill the vacancy resulting from the  
17 resignation of Blumenfield.<sup>43</sup> A special primary was set for September 17, 2013 and, if no candidate  
18 received more than 51% of the vote, the special general election would take place.<sup>44</sup>

19 Following Blumenfield vacating the seat, Shelley filed an additional candidate statement of  
20 intention on July 10, 2013 in order to voluntarily place herself on the ballot for the 2013 special  
21 elections.<sup>45</sup> In order to solicit and receive contributions to support her campaign for the special election  
22 and because state committees are prohibited from being used for more than one election and office, Shelley  
23 formed a second candidate-controlled committee for the special election. She filed a statement of  
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25 <sup>39</sup> Ex. 5.

26 <sup>40</sup> Ex. 6.

27 <sup>41</sup> *Ibid.*

28 <sup>42</sup> Official Notice Ex. 29.

<sup>43</sup> Official Notice Ex. 30.

<sup>44</sup> Official Notice Ex. 31.

<sup>45</sup> Ex. 7.

1 organization for a recipient committee on July 11, 2013, indicating that the committee qualified on July  
 2 8, 2013.<sup>46</sup> This committee, the 2013 Committee, was assigned a committee identification number by the  
 3 SOS, number 1358945.

4 **2. 2013 Committee**

5 As Shelley was a candidate on the ballot for the 2013 special primary and special general election,  
 6 she and the 2013 Committee were required to file campaign disclosure statements for the prescribed  
 7 reporting periods and deadlines, as per statute, with the filing officer for elective state office, the SOS.<sup>47</sup>  
 8 The campaign disclosure statements promote transparency in campaigning, permitting the voters to see,  
 9 prior to the election, where a candidate is getting contributions from, where a candidate is getting loans  
 10 from, where a candidate is making expenditures, and more.

11 According to information provided by certified records from the SOS, the following table details  
 12 statements filed by the 2013 Committee for 2013 reporting periods<sup>48</sup>:

Election Date	Reporting Period	Date Due	Date Paper Statement Filed	No. Days Late (paper)	Date Electronic Statement Filed	No. Days Late (electronic)	Approx. Total Contrib. Reported	Approx. Total Expnd. Reported
<b>2013 Committee</b>								
09/17/2013 Special Primary	01/01 – 08/03/2013	08/08/2013	10/02/2013	55	08/19/2013	11	\$18,155	\$10,147
09/17/2013 Special Primary	08/04 – 08/31/2013	09/05/2013	10/02/2013	27	09/06/2013	1	\$5,479	\$9,696
11/19/2013 Special General	09/01 – 10/05/2013	10/10/2013	02/06/2014	119	10/21/2013	11	\$23,212	\$20,294
11/19/2013 Special General	10/06 – 11/02/2013	11/07/2013	02/06/2014	91	01/31/2014	85	\$36,580	\$28,663
Post-election Semi-annual	11/03 – 12/31/2013	01/31/2014	02/06/2014	6	01/31/2014	0	\$15,665	\$36,139
Total :							\$99,091	\$104,939

26 <sup>46</sup> Ex. 8.

27 <sup>47</sup> See, Ex. 9

28 <sup>48</sup> Ex. 10-12 and Anticipated witness testimony, SAMANTHA BROWN, Staff Services Analyst, SOS.

1           **3. 2014 Committee**

2           Because Shelley was the controlling candidate for the 2014 Committee and because she was on  
 3 the ballot in the 2013 special primary and general elections, the 2014 Committee was required to file pre-  
 4 election statements for the 2013 elections. The Act requires candidates with multiple committees to  
 5 disclose activity prior to elections in order to promote transparency and curb improper practices, such as  
 6 transferring funds between committees in order to avoid contribution limits or to disguise the true source  
 7 of contributions. By requiring both committees to disclose, the voters are fully informed as to the extent  
 8 of fundraising and expenditure activity by a candidate who is on the ballot. In 2013, the 2014 Committee  
 9 was accepting contributions and transferring funds to the 2013 Committee. This activity was required to  
 10 be disclosed timely.

11           According to information provided by certified records from the SOS, the following table details  
 12 statements filed by the 2014 Committee for 2013 reporting periods<sup>49</sup>:

<b>Election Date</b>	<b>Reporting Period</b>	<b>Date Due</b>	<b>Date Paper Statement Filed</b>	<b>No. Days Late (paper)</b>	<b>Date Electronic Statement Filed</b>	<b>No. Days Late (electronic)</b>	<b>Approx. Total Contrib. Reported</b>	<b>Approx. Total Expend. Reported</b>
09/17/2013 Special Primary	07/01 – 08/03/2013	08/08/2013	10/02/2013	55	08/19/2013	11	\$3,225	\$19,007
09/17/2013 Special Primary	08/04 – 08/31/2013	09/05/2013	10/02/2013	27	09/06/2013	1	\$50	\$83
11/19/2013 Special General	09/01 – 10/05/2013	10/10/2013	02/06/2014	119	10/21/2013	11	\$330	\$13,597
11/19/2013 Special General	10/06 – 11/02/2013	11/07/2013	02/06/2014	91	01/31/2014	85	\$266	\$0
Post-election Semi-annual	11/03 – 12/31/2013	01/31/2014	02/06/2014	6	01/31/2014	0	\$6,198	\$440
Total :							\$10,069	\$33,127

27 \_\_\_\_\_  
 28 <sup>49</sup> Ex. 13-15 and Anticipated witness testimony, SAMANTHA BROWN, Staff Services Analyst, SOS.

1 In the 2013 Special Primary Election, Shelley received the second most votes out of ten candidates,  
2 which qualified her for the 2013 Special General Election.<sup>50</sup> She lost the 2013 Special General Election  
3 by 319 votes, a margin of approximately 1% of voters.<sup>51</sup>

#### 4 4. Audit

5 The 2013 Committee and the 2014 Committee were subject to and were audited by FTB, having  
6 raised over \$15,000 in the calendar year, along with the other candidates in the special primary and special  
7 runoff election, for the period of January 1, 2013 through December 31, 2013. The reports for the audits  
8 of the 2013 Committee and the 2014 Committee were submitted by FTB to the Commission, the SOS,  
9 and the Attorney General on December 31, 2014.<sup>52</sup>

10 During the period covered by the audit, the report found that the 2013 Committee reported  
11 receiving contributions of approximately \$99,091 and making expenditures of approximately \$104,940,  
12 and the 2014 Committee reported receiving contributions of approximately \$47,363 and making  
13 expenditures of approximately \$39,937.<sup>53</sup> Taking into consideration transfers between the 2013 and 2014  
14 committees, total receipts for both committees during the audit period was approximately \$115,604 and  
15 total expenditures was approximately \$114,246.<sup>54</sup>

16 The reports found that the filers substantially complied with the disclosure and recordkeeping  
17 provisions of the Act.<sup>55</sup> The reports found that both committees failed to timely file pre-election campaign  
18 statements.<sup>56</sup> The findings were confirmed by the Enforcement Division pursuant to an investigation by  
19 program specialists.<sup>57</sup>

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24 <sup>50</sup> Official Notice Ex. 32.

25 <sup>51</sup> Official Notice Ex. 33.

26 <sup>52</sup> Ex. 16-17.

27 <sup>53</sup> *Ibid.*

28 <sup>54</sup> Ex. 11, 14.

<sup>55</sup> Ex. 16-17.

<sup>56</sup> *Ibid.*

<sup>57</sup> Anticipated witness testimony of LUZ BONNETI, Program Specialist, Enforcement Division.

**B. EVIDENCE**

**1. Witnesses**

Complainant will present witness testimony, as follows:

Witness	Currently Expected to Testify as to:
<b>LUZ BONETTI</b> , Program Specialist II, Fair Political Practices Commission.	History of investigation; Fair Political Practices Commission custom and practice, if necessary.
<b>SAMANTHA BROWN</b> , Staff Services Analyst, SOS, Political Reform Division	SOS, Political Reform Division custom and practice and procedures regarding filing of campaign disclosure statements and other campaign related documents, if necessary; custom and practice and procedures regarding maintenance of records, if necessary; purpose and operative nature of database, Cal-ACCESS, maintained by agency, custom and practice and procedures regarding late fines, annual fee, waivers of liability, correspondence generally, if necessary.
<b>DOMINIKA WOJENSKA</b> , Associate Governmental Program Analyst, Fair Political Practices Commission	Certification of Fair Political Practices Commission business and agency records, if necessary.

**2. Documents**

Complainant will introduce the following documents as evidence:

Exh. No.	Description	Date	Bates-Stamp Nos.
1	Complainant's Hearing Brief		0001-0033
2	Accusation and accompanying documents served on Respondent, including email acknowledgment	July 27, 2018	0034-0056
	2.1 Order Re: Probable Cause	August 17, 2017	0057-0061
	2.2 Amended Report in Support of a Finding of Probable Cause and accompanying documents served on Respondent, including cover letter and proof of service	April 18, 2017	0062-0078



Exh. No.	Description	Date	Bates-Stamp Nos.
2.3	Report in Support of a Finding of Probable Cause and accompanying documents served on Respondent, including cover letter and proof of service	August 23, 2016	0079-0103
3	Respondent's Notice of Defense	August 18, 2018	0104-0105
4	Notices of Hearing	March 7, 2019 May 14, 2019	0106-0112
5	Candidate Intention Statement (California Form 501) for the 2014 Primary/general election for Assembly District Number 45 and Amendment	January 14, 2013 February 22, 2013	0113-0114
6	Statement of Organization, Recipient Committee (California Form 410) for Susan Shelley for Assembly 2014	February 20, 2013	0115-0116
7	Candidate Intention Statement (California Form 501) for the 2013 Special/runoff election for Assembly District Number 45	July 10, 2013	0117
8	Statement of Organization, Recipient Committee (California Form 410) for Susan Shelley for Assembly 2013	July 11, 2013	0118-0121.1
9	Filing Schedule for State Candidate Controlled Committees, Committees Primarily Formed to Support/Oppose Candidate for State Office, Assembly District 45 and Senate District 26 Special Primary & General Elections Being Voted on September 17 & November 19, 2013	07/2013	0122-0123
10	Certified Record: Filing History, Cal-Access Restricted View, SOS, Susan Shelley for Assembly 2013 (ID#1358945)	May 28, 2019	0124-0125
11	Certified Record: Susan Shelley for Assembly 2013 (ID#1358945) Recipient Committee Campaign Statement (California Form 460), Paper Format; SOS, State Archive.		
11.1	Reporting Period January 1, 2013 through August 3, 2013	October 4, 2013	0126-0140
11.2	Reporting Period January 1, 2013 through August 3, 2013 (Amendment)	October 4, 2013	0141-0152

<b>Exh. No.</b>	<b>Description</b>	<b>Date</b>	<b>Bates-Stamp Nos.</b>
<b>11.3</b>	Reporting Period August 4, 2013 through August 31, 2013	October 4, 2013	0153-0169
<b>11.4</b>	Reporting Period September 1, 2013 through October 5, 2013	February 7, 2014	0170-0185
<b>11.5</b>	Reporting Period October 6, 2013 through December 31, 2014	February 7, 2014	0186-0218
<b>11.6</b>	Reporting Period January 1, 2014 through March 17, 2013	March 28, 2014	0219-0230
<b>11.7</b>	Reporting Period March 18, 2017 through May 17, 2014	May 27, 2014	0231-0242
<b>11.8</b>	Reporting Period May 18, 2014 through June 30, 2014	August 4, 2014	0243-0252
<b>11.9</b>	Reporting Period July 1, 2014 through September 30, 2014	October 15, 2014	0253-0264
<b>11.10</b>	Reporting Period October 1, 2014 through October 18, 2014	October 27, 2014	0265-0276
<b>11.11</b>	Reporting Period October 19, 2014 through December 29, 2014	December 31, 2014	0277-0287
<b>12</b>	Certified Records: Susan Shelley for Assembly 2013, Recipient Committee Campaign Statement (California Form 460), Electronic filings; SOS		
<b>12.1</b>	Reporting Period January 1, 2013 through August 3, 2013	August 19, 2013	0288-0304
<b>12.2</b>	Reporting Period September 1, 2013 through October 5, 2013	October 21, 2013	0305-0327
<b>12.3</b>	Reporting Period October 6, 2013 through December 31, 2014	January 31, 2014	0328-0368
<b>13</b>	Certified Record: Filing History, Cal-Access Restricted View, SOS, Susan Shelley for Assembly 2014 (ID#1355796)	May 28, 2019	0369-0370
<b>14</b>	Certified Record: Susan Shelley for Assembly 2014, Recipient Committee Campaign Statement (California Form 460), Paper Format, Entire Filing History; SOS and State Archive		
<b>14.1</b>	Reporting Period January 1, 2013 through March 31, 2013	April 29, 2013	0371-0388
<b>14.2</b>	Reporting Period April 1, 2013 through June 30, 2013	August 2, 2013	0389-0406

Exh. No.	Description	Date	Bates-Stamp Nos.
14.3	Reporting Period July 1, 2013 through August 3, 2013	October 4, 2013	0407-0421
14.4	Reporting Period September 1, 2013 through October 5, 2013	February 7, 2014	0422-0426
14.5	Reporting Period August 4, 2013 through August 31, 2013	October 4, 2013	0427-0438
14.6	Reporting Period October 6, 2013 through December 31, 2014	February 7, 2014	0439-0446
14.7	Reporting Period January 1, 2014 through March 17, 2013	March 28, 2014	0447-0469
14.8	Reporting Period March 18, 2014 through May 17, 2014	May 27, 2014	0470-0492
14.9	Reporting Period March 18, 2014 through May 17, 2014 (Amendment)	May 27, 2014	0493-0513
14.10	Reporting Period May 18, 2014 through June 30, 2014	August 4, 2014	0514-0534
14.11	Reporting Period July 1, 2014 through September 30, 2014	October 15, 2014	0535-0560
14.12	Reporting Period October 1, 2014 through October 18, 2014	October 27, 2014	0561-0577
14.13	Reporting Period October 19, 2014 through December 29, 2014	February 9, 2015	0578-0593
15	Certified Records: Recipient Committee Campaign Statement (California Form 460), Electronic filings; SOS		
15.1	Reporting Period September 1, 2013 through October 5, 2013	October 21, 2013	0594-0607
15.2	Reporting Period October 6, 2013 through December 31, 2014	January 31, 2014	0608-0623
16	Certified Records: Audit Report of the Political Reform Audit Program for Susan G. Shelley, Susan Shelley for Assembly 2013 (1358945), Franchise Tax Board, Political Reform Audit Program; SOS	December 31, 2014	0624-0626
17	Certified Records Audit Report of the Political Reform Audit Program for Susan G. Shelley, Susan Shelley for Assembly 2014 (1355796), Franchise Tax Board, Political Reform Audit Program; SOS	December 31, 2014	0627-0629

Exh. No.	Description	Date	Bates-Stamp Nos.
18	Email from Respondent, susan@susanshelley.com to the FPPC's Technical Assistance Division, advice@fppc.ca.gov, subject: "Reporting question for special election September 17 in AD45"	August 16, 2013 at 4:09PM	0630-0633
19	Certified Records from SOS and State Archives regarding the Committee, Susan Shelley for Assembly 2013, correspondence, late fees, waivers, and receipts for payment of fees		
	19.1 Letter in response to filing a Statement of Organization	July 12, 2013	0634-0635
	19.2 Letter re: late filing liability for reporting period July 1, 2014 through September 30, 2014	May 15, 2015	0636
	19.3 Letter re: late filing liability for reporting period October 1, 2014 through October 18, 2014	April 13, 2015	0637
	19.4 Letter re: late filing liability for reporting period July 1, 2014 through September 30, 2014	February 23, 2015	0638
	19.5 Letter re: late filing liability for reporting period May 18, 2014 through June 30, 2014	October 28, 2014	0639
	19.6 Letter re: late filing liability for reporting period March 18, 2014 through May 17, 2014	August 18, 2014	0640
	19.7 Letter re: Waiver of liability for reporting period September 1, 2013 through October 5, 2013	June 26, 2014	0641
	19.8 Letter re: Waiver of liability for reporting period October 6, 2013 through December 31, 2013	June 26, 2014	0642
	19.9 Letter re: Waiver of liability for reporting period September 1, 2013 through October 5, 2013	June 26, 2014	0643
	19.10 Letter re: Waiver of liability for reporting period January 1, 2014 through March 17, 2014	May 15, 2014	0644
	19.11 Letter re: late filing liability for reporting period September 1, 2013 through October 5, 2013	March 21, 2014	0645-0646
	19.12 Letter re: late filing liability for reporting period October 6, 2013 through December 31, 2013	March 21, 2014	0647-0648
	19.13 Letter re: late filing liability for reporting period August 4, 2013 through August 31, 2013	January 27, 2014	0649

Exh. No.	Description	Date	Bates-Stamp Nos.
19.14	Letter re: late filing liability for reporting period January 1, 2013 through August 3, 2013	January 27, 2014	0650
19.15	Letter re: Annual Fee Notice	December 4, 2013	0651
19.16	Receipt for payment of late filing liability for reporting period of September 1, 2013 through October 5, 2013 and associated documents	July 7, 2014	0652-0663
19.17	Receipt for payment of late filing liability for reporting period of October 6, 2013 through December 31, 2013 and associated documents	July 7, 2014	0664-0674
19.18	Receipt for payment of late filing liability for reporting period of January 1, 2014 through March 17, 2014 and associated documents	July 7, 2014	0675-0679
19.19	Receipt for payment of late filing liability for reporting period of March 18, 2014 through May 17, 2014 and associated documents	October 3, 2014	0680-0684
19.20	Receipt for payment of late filing liability for reporting period of May 18, 2014 through June 30, 2014 and associated documents	January 5, 2015	0685-0689
19.21	Receipt for payment of late filing liability for reporting period of July 1, 2014 through September 30, 2014 and associated documents	June 18, 2015	0690-0695
19.22	Receipt for payment of late filing liability for reporting period October 1, 2014 through October 18, 2014	June 18, 2015	0696-0701
19.23	Receipt for payment of late filing liability for reporting period August 4, 2013 through August 31, 2013	February 28, 2014	1038-1042
19.24	Receipt for payment of late filing liability for reporting period January 1, 2013 through August 3, 2013	February 28, 2014	1043-1047
20	Certified Records from SOS and State Archives regarding the Committee, Susan Shelley for Assembly 2014, correspondence, late fees, waivers, and receipts for payment of fees		
20.1	Letter in response to filing a Statement of Organization	February 21, 2013	0702-0703
20.2	Letter re: Annual Fee Notice 2019	December 3, 2018	0704

<b>Exh. No.</b>	<b>Description</b>	<b>Date</b>	<b>Bates-Stamp Nos.</b>
<b>20.3</b>	Letter re: Annual Fee Late Notice 2017	June 5, 2017	0705
<b>20.4</b>	Letter re: Annual Fee Notice 2018	December 1, 2017	0706
<b>20.5</b>	Letter re: Annual Fee Notice 2017	November 18, 2016	0707
<b>20.6</b>	Letter re: late filing liability for Form F497 due March 3, 2014	February 25, 2016	0708
<b>20.7</b>	Letter re: Annual Fee Notice 2016	November 20, 2015	0709
<b>20.8</b>	Letter re: Annual Fee Late Notice 2015	October 1, 2015	0710
<b>20.9</b>	Letter re: late filing liability for reporting period October 19, 2014 through December 31, 2014	May 8, 2015	0711-0712
<b>20.10</b>	Letter re: late filing liability for reporting period October 1, 2014 through October 18, 2014	April 13, 2015	0713-0714
<b>20.11</b>	Letter re: compliance with disclosure requirements for reporting period July 1, 2014 through September 30, 2014	March 4, 2015	0715
<b>20.12</b>	Letter re: late filing liability for reporting period July 1, 2014 through September 30, 2014	January 2, 2015	0716-0717
<b>20.13</b>	Letter re: late filing liability for reporting period May 18, 2014 through June 30, 2014	October 28, 2014	0718
<b>20.14</b>	Letter re: Annual Fee Notice 2015	November 20, 2014	0719
<b>20.15</b>	Letter re: late filing liability for reporting period March 18, 2014 through May 17, 2014	August 18, 2014	0720
<b>20.16</b>	Letter re: compliance with disclosure requirements for reporting period March 18, 2014 through May 17, 2014	August 13, 2014	0721
<b>20.17</b>	Letter re: waiver of liability for reporting period September 1, 2013 through October 5, 2013	June 26, 2014	0722
<b>20.18</b>	Letter re: waiver of liability for reporting period September 1, 2013 through October 5, 2013	June 26, 2014	0723
<b>20.19</b>	Letter re: waiver of liability for reporting period October 6, 2013 through December 31, 2013	June 26, 2014	0724

<b>Exh. No.</b>	<b>Description</b>	<b>Date</b>	<b>Bates-Stamp Nos.</b>
<b>20.20</b>	Letter re: late filing liability for reporting period January 1, 2014 through March 17, 2014	May 15, 2014	0725
<b>20.21</b>	Letter re: late filing liability for reporting period September 1, 2013 through October 5, 2013	March 21, 2014	0726-0727
<b>20.22</b>	Letter re: late filing liability for reporting period October 6, 2013 through December 31, 2013	March 21 2014	0728-0729
<b>20.23</b>	Letter re: late filing liability for reporting period July 1, 2013 through August 3, 2013	January 27, 2014	0730-0731
<b>20.24</b>	Letter re: late filing liability for reporting period August 4, 2013 through August 31, 2013	January 27, 2014	0732-0733
<b>20.25</b>	Letter re: Annual Fee Notice 2014	December 4, 2013	0734
<b>20.26</b>	Receipt for payment of late filing liability for reporting period of January 1, 2014 through March 17, 2014 and associated documents	July 7, 2014	0735-0739
<b>20.27</b>	Receipt for payment of late filing liability for reporting period of March 18, 2014 through May 17, 2014 and associated documents	October 3, 2014	0740-0744
<b>20.28</b>	Receipt for payment of late filing liability for reporting period of May 18, 2014 through June 30, 2014 and associated documents	January 5, 2015	0745-0749
<b>20.29</b>	Receipt for payment of late filing liability for reporting period of August 4, 2013 through August 31, 2013 and associated documents	February 28, 2014	0750-0757
<b>20.30</b>	Receipt for payment of late filing liability for reporting period of September 1, 2013 through October 5, 2013 and associated documents	July 7, 2014	0758-0770
<b>20.31</b>	Receipt for payment of late filing liability for reporting period October 1, 2014 through October 18, 2014	June 18, 2015	0771-0777
<b>20.32</b>	Receipt for payment of late filing liability for reporting period October 6, 2013 through December 31, 2013	July 7, 2014	0778-0787
<b>20.33</b>	Receipt for payment of late filing liability for reporting period October 19, 2014 through December 31, 2014	June 18, 2015	0788-0796
<b>20.34</b>	Receipt for payment of late filing liability for F497 Date Due March 3, 2014	March 4, 2016	0797-0800

Exh. No.	Description	Date	Bates-Stamp Nos.
20.35	Receipt for payment of late filing liability for reporting period July 1, 2013 through August 3, 2013	February 28, 2014	1048-1055
21	Reserved		
22	Reserved		
23	Reserved		
24	Reserved		
25	Reserved for Impeachment or Rebuttal		
26	Reserved for Impeachment or Rebuttal		
27	Reserved for Impeachment or Rebuttal		
28	Reserved for Impeachment or Rebuttal		

**3. Official Notice**

Complainant will request that the following be given official notice:

**a. General Items**

Official Notice No.	Page Name	Description	Bates-Stamp Nos.
29	City of Los Angeles, Primary Nominating Election, Official Election Results, March 5, 2013	<a href="http://ens.lacity.org/clk/elections/clkelections3291105443_08152016.pdf">http://ens.lacity.org/clk/elections/clkelections3291105443_08152016.pdf</a>	0801



Official Notice No.	Page Name	Description	Bates-Stamp Nos.
30	Special Election Proclamation by the Governor of the State of California, July 2, 2013	Website link: <a href="https://elections.cdn.sos.ca.gov/special-elections/2013-ad45/proclamation.pdf">https://elections.cdn.sos.ca.gov/special-elections/2013-ad45/proclamation.pdf</a>	0802
31	Primary Election Calendar – September 17, 2013 (45 <sup>th</sup> District)	Website link: <a href="https://www.sos.ca.gov/elections/prior-elections/special-elections/assembly-district-45/special-primary-election-september-17-2013/primary-election-calendar/">https://www.sos.ca.gov/elections/prior-elections/special-elections/assembly-district-45/special-primary-election-september-17-2013/primary-election-calendar/</a>	0803-0809
32	Final Official Election Results – 45 <sup>th</sup> Assembly District, Special Primary Election, September 17, 2013	Website link: <a href="https://www.sos.ca.gov/elections/prior-elections/special-elections/assembly-district-45/special-primary-election-september-17-2013/final-official-election-results/">https://www.sos.ca.gov/elections/prior-elections/special-elections/assembly-district-45/special-primary-election-september-17-2013/final-official-election-results/</a>	0810
33	Final Official Election Results – 45 <sup>th</sup> Assembly District, Special General Election, November 19, 2013	Website link: <a href="https://www.sos.ca.gov/elections/prior-elections/special-elections/assembly-district-45/special-general-election-november-19-2013/final-official-election-results/">https://www.sos.ca.gov/elections/prior-elections/special-elections/assembly-district-45/special-general-election-november-19-2013/final-official-election-results/</a>	0811

Official Notice No.	Page Name	Description	Bates-Stamp Nos.
34	Relevant sections from the Political Reform Act, §§ 81000-91015	§§ 81001-3, subd. (h), findings and purpose of the Act, § 82013, subd. (a), definition of "committee" § 82016, subd. (a), definition of "controlled committee" § 82027, definition of "filing officer" § 84200.5, subd. (c), pre-election statements § 84200.8, subd. (a) and (b), timing for pre-election statements § 83116, probable cause § 83116.5, liability under chapter § 84100, committees shall have a treasurer § 84215, subd. (a), where to file campaign statements § 84605, who shall file electronically with the SOS § 85200, statement of intent required § 90001, mandatory FTB audit § 91006, joint and several liability	0812-0837
35	Relevant sections from Title 2, Division 6 of the California Code of Regulations, §§ 18109-18997	§ 18361.4, subd. (d), probable cause proceedings § 18316.6, treasurer liability § 18361.5, administrative hearings § 18427, duties of a treasurer § 18521, establishment of separate committees	0838-0852

**b. Commission penalties for violations of § 84200.5, filed prior to relevant election**

Official Notice No.	Date	FPPC Case No.	Respondents	Penalty for Applicable Count	Bates-Stamp Nos.
36	Sept. 20, 2018	18/381	<i>Tom Wheeler for Supervisor District 5-2018, Tom Wheeler, and Nancy D. Beavers</i>	\$2,000	0853-0861
37	Feb. 21, 2019	18/713	<i>Re-Elect David L. Boyd Orange County Board of Education Trustee Area Two – 2018 and David L. Boyd</i>	\$2,500	0862-0868

Official Notice No.	Date	FPPC Case No.	Respondents	Penalty for Applicable Count	Bates-Stamp Nos.
Official Notice No. (cont.)	<b>Commission Website Links</b>				
36					<a href="http://www.fppc.ca.gov/content/dam/fppc/documents/Stipulations/2018/September/31.%20Tom%20Wheeler%20-%20Stip.pdf">http://www.fppc.ca.gov/content/dam/fppc/documents/Stipulations/2018/September/31.%20Tom%20Wheeler%20-%20Stip.pdf</a>
37					<a href="http://www.fppc.ca.gov/content/dam/fppc/documents/Stipulations/2019/February/11.%20ReElect%20David%20L.%20Boyd%20-%20Stip.pdf">http://www.fppc.ca.gov/content/dam/fppc/documents/Stipulations/2019/February/11.%20ReElect%20David%20L.%20Boyd%20-%20Stip.pdf</a>

**c. Commission penalties for violations of § 84200.5, filed after relevant election**

Official Notice No.	Date	FPPC Case No.	Respondents	Penalty for Applicable Count	Bates-Stamp Nos.
38	Dec. 17, 2015	13/547	<i>Angel Santiago, Friends of Angel Santiago for Inland Empire Utilities Agency Director Division 4, and Valerie Santiago</i>	\$3,000	0869-0886
39	Apr. 19, 2018	16/137	<i>Gil Navarro Legal Defense Fund, Navarro for 47<sup>th</sup> Assembly 2014, and Gilbert "Gil" Navarro</i>	\$5,000	0887-1037
Official Notice No. (cont.)	<b>Commission Website Links</b>				
38					<a href="http://www.fppc.ca.gov/content/dam/fppc/documents/Stipulations/2015/December/Santiago%20-%20Default%20Decision%20and%20Order.pdf">http://www.fppc.ca.gov/content/dam/fppc/documents/Stipulations/2015/December/Santiago%20-%20Default%20Decision%20and%20Order.pdf</a>
39					<a href="http://www.fppc.ca.gov/content/dam/fppc/documents/Stipulations/2018/April/23%20Gil%20Navarro%20Legal%20Defense%20Fund%2c%20Navarro%20for%2047th%20Assembly%202014%2c%20and%20Gilbert%20%20E%2080%9CGil%20%20E%2080%9D%20Navarro%20-%20Default.pdf">http://www.fppc.ca.gov/content/dam/fppc/documents/Stipulations/2018/April/23%20Gil%20Navarro%20Legal%20Defense%20Fund%2c%20Navarro%20for%2047th%20Assembly%202014%2c%20and%20Gilbert%20%20E%2080%9CGil%20%20E%2080%9D%20Navarro%20-%20Default.pdf</a>

1 **C. EXPECTED ARGUMENTS**

2 **1. Complainant's Arguments**

3 **a. The Evidence Will Prove the Elements**

4 Complainant will establish by a preponderance of the evidence that the 2013 Committee, the 2014  
5 Committee, and Shelley violated the Act by failing to timely file pre-election campaign statements.  
6 Documentary evidence proves that the 2013 Committee, the 2014 Committee, and Shelley were aware of  
7 the deadlines to file and the requirement to file both in paper format and electronically, having filed paper  
8 statements and electronic statements throughout the pre-election period, albeit late.

9 **b. Aggravating and Mitigating Factors**

10 In this case, the 2013 Committee, the 2014 Committee, and Shelley repeatedly failed to timely file  
11 pre-election campaign statements. For the pre-election period immediately before the special general  
12 election, the 2013 Committee, the 2014 Committee, and Shelley did not file any campaign statements in  
13 any format, so there was no disclosure available to the public immediately before the Special General  
14 Election.

15 The late-reported statements included nearly 49% of the total receipts and nearly 62% of the total  
16 expenses reported during the audit period for the 2013 and 2014 Committees. In addition, the audit report  
17 made other findings that have not been charged here. The 2013 Committee failed to properly attribute  
18 contributors when funds were transferred from the 2014 Committee. Attributing contributions to particular  
19 contributors helps track contributions and applicable contribution limits. By failing to timely disclose  
20 transfers and failing to properly attribute the contributions, the Respondents deprived the voters of  
21 information about the two campaigns' financial activities. The attribution violation was not charged and  
22 a penalty is not being sought because Shelley produced evidence that she had sought advice regarding  
23 transfers between committees.

24 Additionally, the 2014 Committee failed to file a late contribution report to disclose a \$25,000 loan  
25 received from the candidate and for a \$5,000 loan received from the candidate – these reports are due  
26 within 24 hours of the contribution being received by the Committee. These reports are required by the  
27 Act in order to provide the voters immediate disclosure of large activity in a campaign during the critical  
28

1 period before an election. This violation was not sought as a separate charge, but is considered aggravating  
2 because it demonstrates that there was a pattern of failing to properly adhere to disclosure deadlines.

3 As part of Shelley's response to the Probable Cause Report and later in her discovery materials  
4 produced pursuant to this hearing, Shelley produced an email she sent to the FPPC's Technical Assistance  
5 Division on or about August 16, 2013, after the first pre-election campaign disclosure statement was due  
6 for the special primary election. In this email, she stated, "I just checked online to find the pre-primary  
7 filing deadline and discovered that it was August 8. Sorry about that, I'm on it now."<sup>58</sup> She went on to ask  
8 a question regarding transferring funds between the committees. This admission from Shelley  
9 demonstrates that Shelley knew or had reason to know that she had a pre-election filing obligation, that  
10 she was aware of the deadlines, however, the evidence shows that she persisted in filing campaign  
11 statements past the deadline during the 2014 election cycle.<sup>59</sup>

12 In mitigation, the 2013 Committee, the 2014 Committee, and Shelley filed electronically two of  
13 the three charged pre-election statements within two weeks of the deadline and before the relevant  
14 election. In aggravation, the second pre-election campaign disclosure statement for the special general  
15 election was not filed until after the relevant election for either committee.

16 The 2013 Committee, the 2014 Committee, and Shelley have no history of enforcement action.<sup>60</sup>  
17 The evidence shows that Shelley was negligent in observing the filing deadlines for pre-election  
18 statements. The Enforcement Division confirmed the FTB's audit findings showing that respondents  
19 substantially complied with the Act's campaign reporting requirements during the audit period.<sup>61</sup>

## 20 **2. Respondent's Contentions, as known by Complainant**

21 Shelley contends that she was a first-time candidate for state office acting as her own campaign  
22 treasurer, she made a good-faith effort to familiarize herself with and comply with all the complex  
23 reporting requirements for a special election. She contends there was no intent to conceal information or  
24 to evade reporting. She contends that contribution limits were carefully observed. Shelley repeatedly  
25

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26 <sup>58</sup> Ex. 18.

27 <sup>59</sup> Ex. 10-15, 19-20.

28 <sup>60</sup> Anticipated witness testimony, LUZ BONETTI, Program Specialist, Enforcement Division.

<sup>61</sup> *Ibid.*

1 sought advice from the Commission regarding her obligations under the Act. This mitigation has been  
2 considered as additional possible charges related to failure to attribute transfers between the committees  
3 were dropped because Shelley demonstrated that she sought advice regarding transfers.

4 In addition, by the nature of having a special election close to a general election, Shelley had two  
5 open controlled committees. She contends that she was not notified of errors until 2014, however, in her  
6 request for advice to the Commission dated August 16, 2013, she acknowledged that she “checked online  
7 to find the pre-primary filing deadline and discovered that it was August 8. Sorry about that, I’m on it  
8 now.” By her own admission, Shelley was aware of the filing deadlines and was aware that she was late  
9 on at least one statement. However, she continued to file statements, both in paper and electronic format,  
10 late. She failed to file any pre-election statement for the reporting period of October 6, 2013 through  
11 November 2, 2013, instead, she opted to report this information on a later statement that was filed after  
12 the relevant election.

13 Shelley contends that the violations were inadvertent and moreover that they were not serious. The  
14 evidence shows that Shelley was negligent in adhering to the schedule and she failed to timely file a pre-  
15 election statement prior to the relevant election. Shelley inappropriately downplays the seriousness of the  
16 violations. Transparency and disclosure are central tenants of the Act and the most basic requirements of  
17 a candidate who chooses to put herself on the ballot. By failing to timely file required campaign  
18 statements, Shelley deprived the voters of information, including but not limited to, the identity of her  
19 contributors, the amount of funds she received and had left to spend, the recipients of her expenditures,  
20 and the amount of funds she spent at any given period.

21 Shelley contends that she has been targeted politically, however, the 2013 Committee and 2014  
22 Committee were audited pursuant to statutory mandate that compelled the FTB to audit every candidate  
23 in a special election, including her opponents. Shelley contends that she should not be fined because she  
24 was vastly outspent by her opponent in the general election. However, this is not a lawful factor for  
25 assessing a penalty. Shelley contends that her campaign was small, however, she raised and spent over  
26 \$100,000 for the special primary and special general election. Shelley essentially argues that the rules that  
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28

1 apply to all candidates who chose to run for office should not apply to her and she has refused to take  
2 responsibility for violating her duty to the voters to disclose the activity of her two controlled committees.

3 Shelley contends that she has already paid fees associated with late filings to the SOS and she has  
4 asserted that because the SOS granted waivers of liability for some of the late fees, that therefore,  
5 Commission should not pursue these violations. Documentation from the SOS shows that Shelley was  
6 assessed late fees for late filings of campaign statements filed in 2013 and again in 2014 in relation to the  
7 primary and general election that year.<sup>62</sup> Documentation shows that she applied for and was granted partial  
8 waiver of liability, and that she paid late fees.<sup>63</sup> However, payment of late fees to another agency is not a  
9 factor by which the penalty is to be assessed,<sup>64</sup> nor does it mitigate the public harm. The SOS, as the filing  
10 officer, has separate and distinct authority to assess and waive penalties.<sup>65</sup> In contrast, the Commission is  
11 mandated with the responsibility to vigorously enforce the rules of the Act and impose an administrative  
12 penalty.<sup>66</sup> The factors for determining such a penalty are different, including assessing whether the  
13 violation was part of a pattern and the seriousness of the violation.<sup>67</sup>

#### 14 **IV. APPROPRIATE ADMINISTRATIVE PENALTY**

15 The Commission considers the failure to timely file campaign statements to be a serious violation  
16 of the Act, especially disclosure due before an election. Each violation of the Act carries a maximum  
17 administrative fine of \$5,000.<sup>68</sup> The maximum penalty for the violations charged in the Accusation is  
18 \$25,000. Given the mitigating factors present in this case, a moderate to high fine is justified for each  
19 violation proved in this matter.

20 In framing a proposed order following a finding of a violation pursuant to Section 83116, the  
21 Commission and the administrative law judge shall consider all the surrounding circumstances including  
22 but not limited to: (1) The seriousness of the violation; (2) The presence or absence of any intention to  
23 conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or inadvertent;

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24  
25 <sup>62</sup> Ex. 19-20.

<sup>63</sup> *Ibid.*

<sup>64</sup> Reg. § 18361.5, subd. (d).

<sup>65</sup> § 91013.

<sup>66</sup> § 83116, subd. (c).

<sup>67</sup> Reg. § 18361.5, subd. (d).

<sup>68</sup> § 83116.

1 (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other  
2 government agency in a manner not constituting a complete defense under Section 83114(b); (5) Whether  
3 the violation was isolated or part of a pattern and whether the violator has a prior record of violations of  
4 the Political Reform Act or similar laws; and (6) Whether the violator, upon learning of a reporting  
5 violation, voluntarily filed amendments to provide full disclosure.<sup>69</sup>

6 Failing to timely file campaign statements is a serious violation of the Act because it deprives the  
7 public of information regarding the campaign activities of candidates and their campaign committees. This  
8 type of conduct violates one of the stated purposes of the Act – to ensure that voters are fully informed  
9 and improper practices are inhibited by requiring committees to disclose all contributions and expenditures  
10 made throughout a campaign.<sup>70</sup>

11 In this matter, the evidence will prove that the 2013 Committee, the 2014 Committee, and Shelley  
12 failed to timely file pre-election campaign statements. In mitigation, two of the three pre-election  
13 statements by the 2013 Committee were filed prior to the relevant election. One of the two pre-election  
14 statements by the 2014 Committee was filed prior to the relevant election. In further mitigation, Shelley  
15 demonstrated a good faith by consulting Commission staff for assistance.

16 In aggravation, the 2013 Committee, 2014 Committee, and Shelley's actions appear negligent and  
17 demonstrate a pattern of failing to timely file both the electronic and paper format campaign statements.  
18 Additionally, respondents failed to file one pre-election statement for each committee prior to the relevant  
19 election, causing the public to be wholly without disclosure as to the two committees' activity in some of  
20 the last days leading up to the November 19<sup>th</sup> runoff election.

21 Based on the foregoing factors, a moderate penalty should be imposed against the 2013  
22 Committee, the 2014 Committee, and Shelley for Counts 1, 2, and 4. The facts and circumstances of this  
23 case support the imposition of a penalty ranging from \$2,000 to \$3,000 for each count. Based on the  
24 foregoing factors and because the statements were filed after the relevant election, a moderate to high  
25 penalty should be imposed against the 2013 Committee, the 2014 Committee, and Shelley for Counts 3  
26

27 <sup>69</sup> Reg. § 18361.5, subd. (d).

28 <sup>70</sup> § 81002, subd. (a).



1 and 5. The facts and circumstances of this case support the imposition of a penalty ranging from \$3,000  
2 to \$4,000 for each count. Comparable cases – Commission approved stipulated settlements and default  
3 decisions – are provided for reference in the items of Official Notice.<sup>71</sup>

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9 **V. CONCLUSION**


10 The evidence in this case will clearly establish that the 2013 Committee, the 2014 Committee, and  
11 Shelley failed to timely file pre-election campaign statements.

12 For all of the foregoing reasons, the Enforcement Division of the Fair Political Practices  
13 Commission respectfully requests that a proposed decision be issued with a finding that Susan Shelley for  
14 Assembly 2013, Susan Shelley for Assembly 2014, and Susan G. Shelley violated the Political Reform  
15 Act as set forth in Counts 1-5 of the Accusation, imposing a moderate to high penalty against them.

16 Dated: June 17, 2019

17 **FAIR POLITICAL PRACTICES COMMISSION**

18 By: Galena West  
19 Chief of Enforcement

20   
21 Theresa Gilbertson  
22 Commission Counsel

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28 <sup>71</sup> Official Notice Ex. 36-39.