

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

DEENA R. GHALY, ADMINISTRATIVE LAW JUDGE

CERTIFIED COPY

In the Matter: )  
)  
SUSAN G. SHELLEY, SUSAN ) Case No. 15/003  
SHELLEY FOR ASSEMBLY 2013, and ) OAH No. 2019030096  
SUSAN SHELLEY FOR ASSEMBLY 2014, )  
)  
Respondents. )  
\_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Wednesday, June 19, 2017

Reported by:

MARCENA M. MUNGUIA,  
CSR No. 10420

Job No.:  
23169OAH



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APPEARANCES:

For the COMPLAINANT: THERESA GILBERTSON  
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For the RESPONDENT: SUSAN G. SHELLEY  
IN PRO PER

I N D E X

COMPLAINANT'S

Witnesses:

Direct      Cross      Redirect      Recross

Dominika Wojenska

25          30

Samantha Brown

32          40

Luzmarie Bonetti

43          66          90          94

RESPONDENT'S

Witness:

Amber Rose Maltbie

143          156          157

E X H I B I T S

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MARKED FOR  
IDENTIFICATION

RECEIVED  
IN EVIDENCE

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documents served on  
Respondent

21          21

3 - Respondent's notice of  
defense

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4 - Notices of hearing

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5 - Candidate Intention  
Statement for 2014  
primary/general election  
for Assembly District 45  
and Amendment

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6 - Statement of Organization,  
Recipient Committee for  
Susan Shelley for Assembly  
2014

22          22

7 - Candidate Intention  
Statement for 2013  
special/runoff election  
for Assembly District 45

22          22

E X H I B I T S (Continued)

COMPLAINANT'S:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
8 - Statement of Organization, Recipient Committee for Susan Shelley for Assembly 2013	22	22
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 and General Elections being voted on 9/17 and 11/19/13		30
10 - Certified records: filing history, Cal-Access restricted view, SOS, Susan Shelley for Assembly 2013	22	22
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12 - Certified records: Susan Shelley for Assembly 2013, Recipient Committee Campaign Statement, electronic filings; SOS	22	22
13 - Certified records: filing history, Cal-Access restricted view, SOS, Susan Shelley for Assembly 2013	22	22
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16 - Certified records: Audit Report of the Political Reform Audit Program for Susan G. Shelley, Susan Shelley for Assembly 2013, Franchise Tax Board, Political Reform Audit Program; SOS	22	22
17 - Certified records: Audit Report of the Political Reform Audit Program for Susan G. Shelley, Susan Shelley for Assembly 2014, Franchise Tax Board, Political Reform Audit Program; SOS	22	22
18 - 8/16/13 e-mail from Respondent to FPPC's Technical Assistance Division		30
19 - Certified records from SOS and State Archives regarding Committee, Susan Shelley for Assembly 2013, correspondence, late fees, waivers, and receipts for payment of fees	22	22
20 - Certified records from SOS and State Archives regarding Committee, Susan Shelley for Assembly 2014, correspondence, late fees, waivers, and receipts for payment of fees	22	22
29 - City of Los Angeles primary nominating election official election results, held 3/5/13	24	

E X H I B I T S (Continued)

	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
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COMPLAINANT'S:

- |                                                                                                                                                              |    |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|----|--|
| 30 - Proclamation by the Governor of the State of California to declare the date of the special election for the 45th District of the Assembly, dated 7/2/13 | 24 |  |
| 31 - Primary election calendar, 9/17/13                                                                                                                      | 24 |  |
| 32 - Final election results, as available on SOS website, for 45th Assembly District for the special primary election, 9/17/13                               | 24 |  |
| 33 - Final election results for the special general election, 11/19/13                                                                                       | 24 |  |
| 34 - Relevant sections from Political Reform Act, Sections 81000 through 91015                                                                               | 24 |  |
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B - 8/16/13 e-mail from Ms. Shelley to Advice Division, "Reporting Question for Special Election September 17th in AD 45," and 8/19/13 response	100	100
C - 8/20/13 e-mail from Technical Assistance Division to Ms. Shelley	100	100
D - 12/23/13 e-mail entitled, "Request for Advice"	101	101
E - 1/27/14 Letter to Debra Bowen, Secretary of State	102	102
F - Copy of a \$550 check cashed from Susan Shelley for Assembly to Secretary of State	103	103
G - Copy of check from Susan Shelley for Assembly to Secretary of State for \$660	103	103
H - 3/21/14 letter from Secretary of State	104	104
I - Form 460 cover page for report due 10/10/13	105	105
J - Request for Waiver of Liability; 6/26/14 letters from Secretary of State	107	107
K - Receipt from Secretary of State's office showing payment of \$110, check 1027	107	107
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RESPONDENT'S:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
M - Cover page of the 460 with handwritten notes of fines totaling \$970	108	108
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O - 3/21/14 letter from Secretary of State's office	110	110
P - Request for Waiver of Liability for 2014 committee; letter, receipt for payment	110	110
Q - 460 cover sheet showing \$326 in fines for the 2014 committee	111	111
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T - Filing history for 2013 committee with notations of Form 497 filings	113	113
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X - Cover page and summary page of 460 filing	117	117

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RESPONDENT'S:	MARKED FOR IDENTIFICATION	RECEIVED IN EVIDENCE
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Z - Special election calendar, 6/30/13 through 9/27/13	120	
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BB - Recipient Committee Campaign Statement, 9/1/2013 to 10/5/2013	124	124
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FF - 10/29/15 letter from Ms. Shelley to Chris Reynolds, with attachments	131	131
GG - Computer printout of U.S. Bank statement	133	133
HH - Printout of most recent campaign statement for 2014 committee	134	134
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KK - Termination statement for 2013 campaign filed 12/29/2014	138	138
LL - 6/8/18 outline and comments of California Political Attorneys Association	139	139

1 Los Angeles, California, Wednesday, June 19, 2019

2 11:00 a.m.

3  
4  
5 THE COURT: We're on the record.

6 This is the matter of the Accusation against  
7 Susan G. Shelley and the committees of Shelley for  
8 Assembly 2013 and Shelley for Assembly 2014.

9 The matter is before the Fair Political  
10 Practices Commission. The FPPC case number is 15-003 --  
11 or I'm sorry. It's 15/003. The OAH number is  
12 2019030096.

13 My name is Deena Ghaly. I'm the Administrative  
14 Law Judge assigned to this matter. We are in the  
15 Downtown Los Angeles location of the Office of  
16 Administrative Hearings. Today is June 19, 2019. We  
17 won't discuss the time.

18 Counsel for Complainant, please make your  
19 appearance.

20 MS. GILBERTSON: Theresa Gilbertson for the Fair  
21 Political Practices Commission.

22 THE COURT: Thank you.

23 And Ms. Shelley, please introduce yourself and  
24 confirm that you'll be representing yourself.

25 MS. SHELLEY: My name is Susan Shelley and I am here

1 representing myself.

2 THE COURT: Thank you very much.

3 I need to begin by addressing a disclosure  
4 issue.

5 From 2002 until 2011, I was the head of  
6 Enforcement of the Los Angeles City Ethics Commission.  
7 My division sometimes shared information or jointly  
8 investigated matters of mutual interest with the FPPC.

9 Also, in 2014, I served on a panel of speakers  
10 at a California Political Attorneys Association  
11 conference. Among the other speakers was Galena West,  
12 who as you know is the Enforcement chief for the FPPC.

13 I do not believe my former official dealings  
14 with the FPPC in any way affects my ability to be  
15 impartial in this matter and so on that basis, I have not  
16 self-recused. If you'd like to ask me any questions or  
17 take some time to think through whether this would be,  
18 for you, a reason to bring up a recusal motion, please  
19 let me know now.

20 MS. GILBERTSON: I have no issues, your Honor.

21 THE COURT: Thank you.

22 And Ms. Shelley?

23 MS. SHELLEY: I have no issues.

24 THE COURT: All right. Thank you very much.

25 Moving on, I wanted to give you, Ms. Shelley, an

1 overview of the hearing process.

2 OAH is an independent government agency tasked  
3 with providing a neutral forum for due process hearings.  
4 I have not received or been privy to any information  
5 exchanged or discussions between the parties aside from  
6 some prehearing motions which I will address in a few  
7 moments. However, as far as evidence and information  
8 that I can consider in making my decision, that's only  
9 what I hear and read here in the hearing room.

10 The hearing process is straightforward and it's  
11 not entirely dissimilar to what you might see on  
12 television, but the pacing is a little bit different and  
13 it's not quite as dramatic most of the time.

14 Both sides have an opportunity to present an  
15 opening statement. It's optional. If it's made, it can  
16 be made at the commencement of the hearing or at the  
17 commencement of presenting your case-in-chief,  
18 Ms. Shelley.

19 Just remember that I can only consider testimony  
20 under oath. So to the extent that there's information in  
21 the opening statement that you'd like me to consider, it  
22 also has to be someone's testimony, yours or a witness's.

23 The Complainant will go first because the FPPC  
24 has the burden of proof. Both sides will have an  
25 opportunity to make closing statements, which is

1 basically recapping whatever you think is most important  
2 for both of your cases for me to consider.

3 I want to address the prehearing motions that  
4 have been made before the commencement of the hearing.  
5 There's been a motion from Complainant to exclude  
6 Respondent's witness Amber Maltbie. Am I pronouncing  
7 that correctly?

8 Complainant's counsel argues that Ms. Maltbie  
9 lacks the qualifications to be an expert and that her  
10 testimony is irrelevant. Ms. Gilbertson also notes that  
11 she wasn't duly notified of Ms. Maltbie's background and  
12 area of testimony in time to prepare for  
13 Cross-Examination.

14 At this time, Complainant's motion to exclude  
15 Ms. Maltbie is denied. Since the seriousness of the  
16 violation is a central issue to both Complainant's  
17 case-in-chief and Respondent's defense, it's axiomatic  
18 that a balanced review of the case requires exploration  
19 of this issue from both perspectives. Of course  
20 Complainant will have the opportunity to voir dire the  
21 witness regarding her qualifications when she takes the  
22 stand and any issues of relevancy can also be  
23 addressed -- raised and addressed through objections at  
24 the time of her testimony.

25 Respondent has also motioned this forum to

1 exclude all Complainant's witnesses and all exhibits. At  
2 this time, Respondent's motion to exclude Complainant's  
3 witnesses and exhibits is denied. Respondent may raise  
4 objections to Complainant's witnesses at such time as  
5 they are called and to exhibits proffered into evidence  
6 by the Complainant.

7 As a point of reference, administrative hearings  
8 are held pursuant to the Administrative Procedure Act,  
9 not the Rules of Civil Procedure or the Evidence Code,  
10 though these might sometimes be referred to or borrowed  
11 from under certain circumstances.

12 Finally, I understand Respondent has lodged a  
13 motion to dismiss. I have not yet reviewed that motion  
14 and will not rule on it until I do. I do note that  
15 pursuant to the APA and case law on this issue,  
16 dispositive motions are not expressly allowed. Reasons  
17 to dismiss an Accusation are often the basis of a defense  
18 though and can be considered and ruled on in the course  
19 of making factual findings and legal conclusions, so they  
20 can be raised during the course of the hearing, raised  
21 and considered.

22 All right. Is there anything else from either  
23 party before moving on to the evidentiary portion of the  
24 hearing?

25 MS. GILBERTSON: I just would note that the witnesses

1 are still here. Should they be asked to move to the --

2 THE COURT: Right. I generally exclude witnesses on  
3 my own motion. Is there any objection to that?

4 MS. SHELLEY: I do object. I believe Ms. Maltbie  
5 should be here to hear the case so that her testimony is  
6 informed by the details of what she's going to be asked  
7 to be commenting about.

8 THE COURT: Any response to that, Ms. Gilbertson?

9 MS. GILBERTSON: No, your Honor.

10 THE COURT: All right. Ms. Maltbie will be allowed  
11 to remain as an expert witness.

12 MS. SHELLEY: Thank you.

13 THE COURT: The other witnesses should proceed to the  
14 witness waiting room. It's to the left, I think, and  
15 about halfway down the hall. It's the room with a lot of  
16 really old magazines.

17 All right. Ms. Gilbertson, do you wish to make  
18 an opening statement?

19 MS. GILBERTSON: Yes, your Honor.

20 Susan Shelley was a candidate for the 45th  
21 Assembly District in the 2014 primary and general  
22 election. A special election was called in 2013 due to a  
23 vacancy in the office and Shelley, thereafter, placed  
24 herself on the ballot. As a result, she had two  
25 political committees and had an obligation to file



1 campaign statements for both committees timely.

2 The Enforcement Division has sufficient evidence  
3 to prove five violations. The law requires that a  
4 candidate who places herself on the ballot must file  
5 preelection campaign disclosure statements. The  
6 deadlines for these statements are set by statute. This  
7 law is a central and basic requirement. It's a part of a  
8 broader statutory scheme, the purpose of which is for  
9 transparency and disclosure in campaigning.

10 The Enforcement Division will show that Shelley  
11 and the 2013 committee failed to timely file a  
12 preelection statement in connection to the special  
13 primary election held on September 17th, 2013 and that  
14 she also failed to timely file two preelection statements  
15 in connection with the special runoff election held on  
16 November 19th, 2013.

17 The Enforcement Division will also show that  
18 Shelley and the 2014 committee failed to timely file two  
19 preelection statements in connection with the special  
20 runoff election held on November 19, 2013.

21 Shelley acted as her own treasurer. She was a  
22 first-time candidate handling a special election  
23 reporting schedule as well as two committees. She sought  
24 assistance from the committee's Technical Assistance  
25 Division on various matters regarding campaign finance

1 reporting and overall she substantially complied with the  
2 Act's reporting requirements; however, Shelley knew that  
3 she had a duty to file the statements for both of her  
4 committees and yet she consistently failed to file those  
5 statements on time. In fact, in the lead-up to the  
6 special runoff election, she failed to file any  
7 preelection disclosure statement for both committees  
8 until after the election, despite having significant  
9 activity to report. This failure caused significant  
10 public harm.

11 In conclusion, Shelley failed to file five  
12 preelection statements, depriving the voters of timely  
13 disclosure of her campaign's financial activities. These  
14 actions justify a moderate to high penalty for five  
15 counts of violating the Political Reform Act.

16 THE COURT: Thank you.

17 Ms. Shelley, would you like to make your  
18 statement now?

19 MS. SHELLEY: I will reserve to the start of my  
20 defense.

21 THE COURT: Thank you very much.

22 Are you ready to proceed, Ms. Gilbertson?

23 MS. GILBERTSON: Yes, your Honor. I have the  
24 original certified copies that I would like to submit as  
25 evidence. However, given the way that they are bound in

1 order to keep them certified, we have also presented  
2 copies that are working copies and are marked as the  
3 exhibits in my exhibit list. So I'll start just with  
4 that.

5 THE COURT: All right.

6 MS. GILBERTSON: I'd like to request that Exhibits 2  
7 through 4 be moved into evidence. This is the pleadings  
8 file and this is for the purpose of establishing  
9 jurisdiction. Can I -- can I hand you the working copy?

10 THE COURT: Yes. I think that's the best way.

11 MS. GILBERTSON: And then I'll also bring the  
12 certified copies.

13 MS. SHELLEY: Your Honor, may I ask a question?

14 THE COURT: Yes.

15 MS. SHELLEY: I would like it in the record that I  
16 was not served personally this Accusation, which is --  
17 which is what's required by the FPPC Enforcement  
18 Division's manual. I was served by e-mail and I would  
19 just like -- I did file a Notice of Defense so obviously  
20 I did receive it, but I would like it in the record that  
21 I was not served personally.

22 THE COURT: All right. So noted.

23 All right. So the exhibits being introduced,  
24 you said 2 through 4, Ms. Gilbertson?

25 MS. GILBERTSON: Yes.

1 THE COURT: So can you just describe briefly what  
2 these documents are?

3 MS. GILBERTSON: Yes. Exhibit 2 is the Accusation  
4 and the accompanying documents that were served,  
5 including a copy of the e-mail in which Ms. Shelley  
6 acknowledged receiving and acknowledged her intent to  
7 file a Notice of Defense. We have a sub Exhibit 2.1.  
8 This is the order regarding probable cause from the Fair  
9 Political Practices Commission instructing the  
10 Enforcement Division to serve an Accusation. Exhibit 2.2  
11 is the amended report in support of a finding of probable  
12 cause as well as accompanying documents, the proof of  
13 service. Exhibit 2.3 is the original report in support  
14 of a finding of probable cause as well as the  
15 accompanying documents.

16 Exhibit 3 is the Respondent's Notice of Defense,  
17 and Exhibit 4 are two of the notices of hearing that were  
18 served on Ms. Shelley.

19 THE COURT: And these documents are being  
20 presented -- are being offered for jurisdictional  
21 purposes only; is that correct?

22 MS. GILBERTSON: Yes.

23 THE COURT: All right. Ms. Shelley, on that basis,  
24 do you understand what that means?

25 MS. SHELLEY: No, I don't.

1 THE COURT: It simply means that these are the  
2 documents that gives this forum the legal authority to  
3 decide this matter. So they're not evidence, per se.  
4 They just are the -- they're the necessary documents to  
5 commence this hearing.

6 MS. SHELLEY: Okay. So if there was something in  
7 them that I wanted to introduce as evidence, would I have  
8 to do that separately?

9 THE COURT: You don't have to do it separately. Once  
10 it's in the record, you can note --

11 MS. SHELLEY: I can cite to it?

12 THE COURT: Yes, whatever your argument is.

13 MS. SHELLEY: Okay. Thank you.

14 THE COURT: Are you concerned that because it's not  
15 evidence, per se?

16 MS. SHELLEY: I'm just asking if I have to introduce  
17 it again in my defense.

18 THE COURT: Let's visit that issue when it comes up.  
19 It depends sort of on the context. So all right. So  
20 Exhibits 2 through 4 are admitted for jurisdictional  
21 purposes only.

22 (Complainant's Exhibit 2 through 4 were  
23 marked for identification by the Court and  
24 received in evidence.)

25 MS. GILBERTSON: I'd like to request that exhibits --

1 that the certified public records be admitted into  
2 evidence. These are the original records that are in the  
3 briefcase and they are the following exhibits in the  
4 binders. That would be Exhibits 5 through 8, 10 through  
5 17, and 19 through 20.

6 THE COURT: 5 through 8, 10 through 17 and what was  
7 the last one?

8 MS. GILBERTSON: 19 through 20.

9 MS. SHELLEY: I don't think I have an Exhibit 5. Oh,  
10 yes, I do. Sorry.

11 MS. GILBERTSON: It's the tabs on the side. So this  
12 is Exhibit 12.

13 MS. SHELLEY: Okay.

14 THE COURT: All right. These are certified records,  
15 campaign filings. Is there any objection to having them  
16 admitted into evidence?

17 MS. SHELLEY: No, your Honor.

18 THE COURT: All right. What's been marked as  
19 Exhibits 5 through 8, 10 through 17, and 19 through 20  
20 are admitted.

21 (Complainant's Exhibits 5 through 8, 10  
22 through 17, and 19 through 20 were  
23 marked for identification by the Court and  
24 received in evidence.)

25 MS. GILBERTSON: I would also like to request the

1 Court to take official notice of Exhibits 29 through  
2 33 -- I'm sorry. That would be 29 through 37. I  
3 apologize.

4 THE COURT: 29 through 37? Can you briefly describe  
5 these documents?

6 MS. GILBERTSON: Yes. Exhibit 29 is from the City of  
7 Los Angeles. It is the primary nominating election that  
8 was held on March 5th, 2013. It is their official  
9 election results.

10 Exhibit 30 is the proclamation by the Governor  
11 of the State of California to declare the date of the  
12 special election for the 45th District of the Assembly  
13 and this proclamation was dated July 2nd, 2013.

14 Exhibit 31 is the primary election calendar,  
15 September 17th, 2013.

16 Exhibit 32 are the final election results, as  
17 available on the Secretary of State's website for the  
18 45th Assembly District for the special primary election,  
19 September 17th, 2013.

20 Exhibit 33 would be the final election results  
21 for the special general election, November 19th, 2013.

22 Exhibit 34 are the relevant sections from the  
23 Political Reform Act, Sections 81000 through 91015.  
24 Section -- I'm sorry.

25 Exhibit 35 are the relevant sections from

1 Title 2, Division 6 of the California Code of  
2 Regulations. That's Sections 18109 through 18997.

3 Exhibit 36 is a stipulation entered between --  
4 in the matter of Tom Wheeler for Supervisor District 5,  
5 2018, on the -- this is available on the FPPC's website.

6 Exhibit 37 is another stipulation, Exhibit 38 is  
7 a default decision at the FPPC, and Exhibit 39 is a  
8 default decision.

9 THE COURT: So there's been a motion for this forum  
10 to take official notice, meaning just to consider these  
11 documents which are already in the public forum. Is  
12 there an objection to that?

13 MS. SHELLEY: There is not.

14 THE COURT: All right. Exhibits 29 through 39 are  
15 lodged into the record and official notice will be taken  
16 of them.

17 (Complainant's Exhibits 29 through 39 were  
18 marked for identification by the Court.)

19 MS. GILBERTSON: Your Honor, I'd like to call my  
20 first witness to authenticate business records.

21 THE COURT: That's fine.

22 MS. GILBERTSON: Okay. Should I go get her?

23 MS. BONETTI: I can go get her.

24 MS. GILBERTSON: Dominika.

25 THE COURT: I'm sorry. Your name?



1 MS. WOJENSKA: Dominika Wojenska.

2 THE COURT: Please come and stand next to -- you can  
3 actually move one of those chairs out of the way and I'll  
4 ask you to raise your right hand.

5  
6 DOMINIKA WOJENSKA,  
7 called as a Witness, and having been first duly sworn by  
8 the Court, was examined and testified as follows:

9 THE WITNESS: I do.

10 THE COURT: Thank you.

11 Your witness, Ms. Gilbertson.

12 MS. GILBERTSON: Thank you.

13 THE COURT: I'm sorry. Would you state and spell  
14 your full legal name for the record.

15 THE WITNESS: Of course.

16 THE COURT: You may sit down.

17 THE WITNESS: Dominika Wojenska, W-o-j-e-n-s-k-a.

18 THE COURT: Thank you. Your witness, Ms. Gilbertson.

19

20 DIRECT EXAMINATION

21 BY MS. GILBERTSON:

22 Q Ms. Wojenska, can you tell us where do you work?

23 A At the Fair Political Practices Commission.

24 Q Is that FPPC for short?

25 A Yes, it is.

1 Q Thank you. And what is your position at FPPC?

2 A Associate governmental program analyst.

3 Q And how long have you been working at FPPC in  
4 this role?

5 A In this role, since March 2018.

6 Q And prior to that?

7 A I worked as a staff services analyst for almost  
8 two years.

9 Q Did you have similar duties in that previous  
10 position?

11 A Some of them, yes.

12 Q And what are your current duties as associate  
13 governmental program analyst?

14 A I coordinate and process nonfinal and annual fee  
15 referrals. I also work on advertisement cases. I  
16 organize and maintain prior cases' charts. I assist  
17 attorneys in drafting probable cause reports, ex parte  
18 requests, accusations and default documents, and I also  
19 support the Enforcement Division attorneys in preparing  
20 documents for default cases and administrative hearings.

21 Q As part of your duties, you are familiar with  
22 the customs and practices at the FPPC when it comes to  
23 maintaining case files; correct?

24 A Yes, I am.

25 Q Are you familiar with the FPPC's case filing

1 system?

2 A Yes, I am.

3 Q Do you maintain your own case files as part of  
4 your duties?

5 A Yes, I do.

6 Q And you also work with other staff?

7 A Yes. When I'm assigned to a case, yes.

8 Q Okay. How does the FPPC maintain its case  
9 files?

10 A For older cases opened before 2016, we maintain  
11 paper case files and electronic case files. For more  
12 recent cases, we keep electronic case files in our case  
13 management system.

14 Q Assuming it's a paper case file --

15 A Uh-huh.

16 Q -- what do you do with documents that you  
17 receive from Respondents?

18 A I add them to the case file.

19 Q And what do you do with correspondence  
20 between -- that you receive?

21 A I would also add it to the case file.

22 Q What types of documents are retained in the case  
23 file while a case is open?

24 A I would say it depends on the case, but  
25 generally the case file includes complaint or referral

1 documents, audit documents, investigation plan and  
2 investigation reports, correspondence and records  
3 received from the Respondents and other parties, staff  
4 memoranda and evaluations, stipulations, probable cause  
5 report, Accusation, and then default documents or  
6 administrative hearing documents, depending on the case.

7 Q Are you familiar with this case file?

8 A Yes, I am.

9 Q Why are you familiar with the case?

10 A I supported the Enforcement Division attorney in  
11 preparing documents for this hearing.

12 Q Okay. Can you please refer to Exhibit 9?

13 A Uh-huh.

14 Q Are you familiar with this document?

15 A Yes, I am.

16 Q Why are you familiar with this document?

17 A I made a copy of this document and put it in the  
18 hearing binders.

19 Q And what is "this document"?

20 A This is a filing schedule prepared by the Fair  
21 Political Practices Commission for State candidate  
22 controlled committees, committees primarily formed to  
23 support/oppose candidate for State office, Assembly  
24 District 45 and Senate District 26, special primary and  
25 general elections being voted on September 17th and

1 November 19th, 2013.

2 Q Okay. Thank you. Can you also look at  
3 Exhibit 18? It'll be in the second binder.

4 MS. GILBERTSON: Ms. Shelley, it should look like  
5 this (indicating).

6 MS. BONETTI: Second binder.

7 MS. SHELLEY: Second binder. 18. It's not the  
8 one --

9 MS. BONETTI: The outside tabs.

10 MS. SHELLEY: Thank you.

11 BY MS. GILBERTSON:

12 Q Are you familiar with this document?

13 A Yes, I am.

14 Q And why are you familiar with this document?

15 A I made a copy of these documents for the hearing  
16 binders.

17 Q Okay. And what is this document?

18 A It's a copy of e-mails sent by Susan Shelley to  
19 the advice e-mail at FPPC advice e-mail back in 2013.

20 Q Thank you.

21 MS. GILBERTSON: That's all I have for this witness.  
22 I would like to ask that Exhibits 9 and 18 be entered  
23 into evidence as a business record of the Fair Political  
24 Practices Commission.

25 THE COURT: Any objection?

1 MS. SHELLEY: No.

2 THE COURT: Exhibits 9 and 18 are admitted.

3 Any questions for this witness?

4 MS. SHELLEY: Yes, please.

5 (Complainant's Exhibits 9 and 18 were  
6 received in evidence by the Court.)

7

8 CROSS-EXAMINATION

9 BY MS. SHELLEY:

10 Q Ms. Wojenska?

11 A Wojenska.

12 Q Thank you. I apologize. You made a copy of the  
13 filing schedule and you put it in the file?

14 A In the hearing binders.

15 Q In the hearing binders?

16 A It was already in the file.

17 Q Okay. But when the filing schedule was  
18 prepared, were the candidates notified? Did an e-mail go  
19 out to the candidates?

20 A I don't know that.

21 Q But you didn't do this?

22 A No.

23 Q You didn't send it? Did a letter go out to the  
24 candidates?

25 A I don't know that.

1 Q But you didn't do it?

2 A No, I did not.

3 Q Did you or -- did you personally or are you  
4 aware that anyone did notify the candidates? Is there a  
5 policy of notifying the candidates? Does anyone notify  
6 the candidates?

7 A I don't know that.

8 Q But you didn't?

9 A No, I did not.

10 Q Did you work on the probable cause report for  
11 this case?

12 A No, I did not.

13 Q Did you work on any part of the paperwork in  
14 2013 or in 2014 that was filed or respond to any of the  
15 questions --

16 A No, I did not.

17 Q -- that were in the e-mail?

18 A No, I did not.

19 Q No, you did not?

20 MS. SHELLEY: No further questions.

21 THE COURT: Anything on Redirect?

22 MS. GILBERTSON: No, your Honor.

23 THE COURT: Thank you.

24 Ms. Wojenska, you are excused. Thank you for  
25 your help.

1 MS. GILBERTSON: I'd like to call my second witness  
2 to the stand.

3 (Pause in the proceedings)

4 THE COURT: What is your name, ma'am?

5 MS. BROWN: My name is Samantha Brown.

6 THE COURT: Ms. Brown, please come and stand next to  
7 this chair. Raise your right hand.

8  
9 SAMANTHA BROWN,  
10 called as a Witness, and having been first duly sworn by  
11 the Court, was examined and testified as follows:

12 THE WITNESS: Yes.

13 THE COURT: Thank you. Please have a seat. Please  
14 state and spell your full legal name for the record.

15 THE WITNESS: My name is Samantha Brown,  
16 S-a-m-a-n-t-h-a B-r-o-w-n.

17 THE COURT: Your witness, Ms. Gilbertson.

18  
19 DIRECT EXAMINATION

20 BY MS. GILBERTSON:

21 Q Good morning. What is your occupation and  
22 employer?

23 A My occupation title is staff services analyst  
24 and I work at the Secretary of State's office.

25 Q And what division do you work for?



1           A    I work in the Political Reform Division at the  
2 Secretary of State.

3           Q    We call -- can we call it PRD for short?

4           A    Yes.

5           Q    And what is the Political Reform Division?

6           A    The Political Reform Division is the filing  
7 office for lobbyists' disclosure and registration as well  
8 as campaign committee registration and disclosure.

9           Q    And can you explain a little bit about what a  
10 filing officer is?

11          A    The filing officer will receive documents based  
12 on the obligations of committees or candidates and store  
13 the filings and make them available to the public.

14          Q    How long have you been in your current position?

15          A    I've been in this current position since  
16 November of 2017.

17          Q    Okay. And what was your position prior?

18          A    Before then, I was the executive assistant to  
19 the chief of the division.

20          Q    And can you tell me a little bit about your  
21 duties, both current and former, with the Political  
22 Reform Division as it relates to filings by candidates?

23          A    I assist in training -- cross-training staff on  
24 filing reports that are received by our office as well as  
25 retrieving them for requests.

1 Q Okay. And how do you or -- do your colleagues  
2 assist candidates, assist candidates?

3 A We will assist them by directing them to the  
4 Fair Political Practices Commission manuals and  
5 regulations on the website and will assist them in  
6 determining where to file that report and who their  
7 filing officer is depending on their jurisdiction.

8 Q Okay. What are the types of documents that the  
9 PRD processes?

10 A One of them is the Statement of Organization for  
11 Campaign Committees. They receive their I.D. number with  
12 my office, and then any disclosure reports if it's a  
13 statewide jurisdiction are filed in our office.

14 Q And what are these documents for? What do they  
15 do?

16 A Candidates will report to us when they start to  
17 raise money for a particular election and then if they  
18 start a campaign committee, they will have to submit this  
19 campaign committee statements in our office, showing  
20 their activity, expenditures and contributions.

21 Q Okay. And in what format do they have to file?

22 A They have to file them on the Fair Political  
23 Practices Commission-produced forms and they will also  
24 input it online and submit reports.

25 Q And so that would be an electronic filing?

1 A Yes.

2 Q Okay. So the PRD receives these documents.  
3 What does PRD do when they receive these documents from  
4 candidates and committees?

5 A Well, we have a filing system where we store the  
6 documents; and due to our records retention policy, we  
7 will move them to the -- we will actually do a records  
8 transfer to the State archives after a period of time.

9 Q Okay. And that would be the paper statements?

10 A Yes.

11 Q Okay. And then are -- how are the electronic  
12 filings maintained?

13 A They're maintained on the database so that we  
14 can pull up the pdf if requested by the public.

15 Q Okay. When would a -- we'll start with paper.  
16 When would a paper form be considered received and filed  
17 by PRD?

18 A The paper forms are considered received and  
19 filed based on the day we get it from the post office in  
20 our mail or delivered over our public counter.

21 Q Okay. Do you ever consider when a document was  
22 postmarked?

23 A Yes.

24 Q When do you consider that and how?

25 A For certain semiannual deadlines and preelection

1 deadlines, we will -- our mail staff will mark the  
2 postmark date on the form and keep the envelope.

3 Q Okay. And is that used to consider when this  
4 document was filed?

5 A Yes.

6 Q Okay. What is Cal-Access?

7 A Cal-Access is our public website and it's where  
8 people can view what committees are formed and they can  
9 view the pdfs of the electronically filed reports.

10 Q So it's a database that will show what  
11 candidates have submitted to you?

12 A Yes.

13 Q Okay. Is this the official record for  
14 determining when a committee has filed?

15 A Yes.

16 Q And who can enter information into this  
17 database?

18 A Staff within the Political Reform Division can  
19 enter information.

20 Q And when is entered -- when is information  
21 entered into the database?

22 A For paper reports, our mail staff will  
23 distribute them to the logging desk. So there are staff  
24 that will log the statements after they're filed by the  
25 mail staff.

1 Q And for electronic, is that -- how does that  
2 work?

3 A Electronically filed reports are immediately  
4 viewable on Cal-Access on the public website and the  
5 internal database.

6 Q Okay. And what is cares?

7 A CARS is a web-based database that reflects in  
8 live what is in our internal database.

9 Q Could you look at Exhibit 10? That would be in  
10 the first binder, binder one.

11 A Okay.

12 Q Do you recognize this document?

13 A Yes.

14 Q Okay. What is it?

15 A This is a printout of a filing history for  
16 candidate controlled committee for Shelley for Assembly  
17 2013.

18 Q Okay. And --

19 MS. SHELLEY: I'm not finding it. Where is this?

20 MS. BONETTI: The tabs on the side.

21 MS. SHELLEY: The tabs on the side. 12, did you say  
22 it was?

23 MS. GILBERTSON: Yeah. Exhibit 10.

24 MS. SHELLEY: Thank you very much.

25 MS. GILBERTSON: You're welcome.

1 BY MS. GILBERTSON:

2 Q Okay. Could you give us a brief explanation of  
3 what the different columns indicate? So, for example,  
4 the column for "form," what do those numbers mean?

5 A The "form" column shows the form number  
6 reflected on the Fair Political Practices Commission  
7 forms.

8 Q And the filing type?

9 A The "filing type" column shows -- it will read  
10 "AMS" for documents on paper that are inputted by  
11 Political Reform Division staff and then it will read  
12 "electronic" for documents filed by the filer.

13 Q Okay. And the filing date I think is -- and the  
14 period covered I think are self-explanatory. As far as  
15 the period covered, is the -- what are the -- are the  
16 dates there from the documents themselves?

17 A Yes.

18 Q Okay. Can you explain the column for "type"?

19 A In the "type" column, it will read whether the  
20 statement is "log," which just means it's the first  
21 statement filed for that reporting period, or it might  
22 read "termination" if it's the last statement and the  
23 filer marked that it was the terminating statement. And  
24 then the electronic filings will show "original" or  
25 "initial" if it's the first statement for that reporting

1 period or it might read "amendment" if it's an amendment  
2 to a previously filed report or termination.

3 Q And the Filing I.D. dash Amendment I.D. column?

4 A That column, it -- a number is generated by our  
5 database for each filing.

6 Q Okay. Does the PRD have a process for  
7 determining if campaign statements have been filed late?

8 A Yes.

9 Q Do you know about this process?

10 A I know that the mail staff will stamp reports  
11 in, but if -- they will know the deadlines. So they will  
12 keep the envelope if it's a late statement and forward it  
13 over to our compliance center in the office.

14 Q And are there fines associated with filing late?

15 A Yes.

16 Q Okay. And are you familiar at all with how  
17 those fines are evaluated or if those fines are waived?

18 A I'm not directly -- I do not directly do work  
19 with the Compliance Section of our office.

20 Q Okay. So you're not familiar?

21 A No.

22 MS. GILBERTSON: Okay. That's all I have for this  
23 witness.

24 THE COURT: Thank you.

25 Ms. Shelley?

1 CROSS-EXAMINATION

2 BY MS. SHELLEY:

3 Q You receive the reports from the candidates. Do  
4 you have a process of telling the candidates if a report  
5 is missing when a date goes by? Do you have any kind of  
6 a log that says, We got this one, this one, but we didn't  
7 get this one and this one? Do you keep any records of  
8 that type?

9 A Generally, our staff will send correspondence,  
10 but I'm not sure of the process on when they will send  
11 correspondence to committees or what they don't.

12 Q Was any correspondence sent to the Susan Shelley  
13 committees?

14 A Yes, I believe there was correspondence sent.

15 Q Was correspondence sent about missing reports?

16 A I don't recall what particular letters were sent  
17 for this I.D. number.

18 Q This e-mail that I sent was that I was making  
19 every effort to comply with everything and it's a  
20 daunting task. Was this sent to you?

21 A No.

22 Q I was referred by the Secretary of State's  
23 office. As you said, they -- the Secretary of State's  
24 office refers candidates to the FPPC. I was referred to  
25 the "advice at." Do you answer those?



1 A No.

2 Q Do you know if there's an answer given?

3 A No.

4 Q When you refer candidates to assist them to the  
5 manuals and the website, how many pages are in the  
6 candidate manual?

7 A I don't know.

8 Q Would you say it's a lot of material?

9 A I don't know.

10 Q And when you refer people to the website, do you  
11 refer them just to the front page of the website or do  
12 you give specific links to, for instance, a filing  
13 schedule?

14 A We will communicate where to find the schedules.

15 Q And did anyone communicate with the Susan  
16 Shelley campaign?

17 A I don't know.

18 Q When you have these logs, do you show the time  
19 of day that people are on these logs that are -- the time  
20 of day that these are filed or just the date?

21 A It's not on these logs.

22 Q But you do have that?

23 A I don't know.

24 Q Okay. Do you have a record of time on-site when  
25 there isn't a filing; in other words, someone trying to

1 work on something, but it doesn't complete the filing?  
2 Do you have a record of how much time is spent in each of  
3 these log-in -- when a candidate logs in, do you have any  
4 kind of a record of how many times something is worked on  
5 but not filed?

6 A I don't know if that's available.

7 Q So all you have here is when it was filed, but  
8 you have no idea how much time went in to working on each  
9 report before it's officially pushed "send"?

10 A Yes.

11 MS. SHELLEY: Okay. No more questions.

12 THE COURT: Thank you. Anything on Redirect?

13 MS. GILBERTSON: No, your Honor.

14 THE COURT: Thank you, Ms. Brown. You are excused.

15 MS. GILBERTSON: Your Honor, I'd like to call my last  
16 witness to the stand.

17 MS. BONETTI: Do I need to bring my badge or  
18 anything?

19 MS. GILBERTSON: No.

20 THE COURT: Your name?

21 MS. BONETTI: Luzmaria Bonetti.

22  
23 LUZMARIA BONETTI,  
24 called as a Witness, and having been first duly sworn by  
25 the Court, was examined and testified as follows:

1 THE WITNESS: Yes.

2 THE COURT: Thank you. Please have a seat and please  
3 state and spell your full legal name for the record.

4 THE WITNESS: It's all together, no space,  
5 L-u-z-m-a-r-i-a. The last name is Bonetti,  
6 B-o-n-e-t-t-i.

7 THE COURT: Ms. Gilbertson.

8 MS. GILBERTSON: Thank you.

9

10 DIRECT EXAMINATION

11 BY MS. GILBERTSON:

12 Q Ms. Bonetti, what is your occupation and  
13 employer?

14 A I work for the Fair Political Practices  
15 Commission, State of California, and my occupation is I'm  
16 a program specialist, an auditor background.

17 Q And how long have you been a program specialist  
18 with FPPC?

19 A Well, I've been with the FPPC -- it'll be about  
20 20 years this December. My title has actually changed,  
21 but basically it's the same. It's an auditor.

22 Q And where did you work prior to the FPPC?

23 A I worked for the California Fair Political  
24 Practices Commission one year in their Tax Unit and then  
25 I transferred over to the Political Reform Division, so

1 about seven years in the Political Reform Division  
2 conducting audits, campaign audits.

3 Q For who?

4 A For the Franchise Tax Board. They have a unit  
5 called Political Reform Division or unit, something like  
6 that. I forget the exact name.

7 Q And what were your duties when you worked at the  
8 Franchise Tax Board?

9 A Doing -- conducting the audits of large  
10 campaigns anywhere from somebody running for governor all  
11 the way down to local supervisor, mayor, city council,  
12 lobbying firms, lobbying employers, large political  
13 committees, general purpose committees, primary reform  
14 committees.

15 Q Okay. What are your duties as a program  
16 specialist at the Fair Political Practices Commission?

17 A Okay. The Fair Political Practices Commission  
18 will also conduct audits. Under the 90001, we conduct  
19 the audits of Board of Equalization, controller  
20 candidates and their controlled committees; and then in  
21 addition to that, we have contractual audits that we do.

22 Now we have agreements with some local agencies.  
23 Like the City of Sacramento, San Bernardino County's, we  
24 conduct those audits as well. We also conduct  
25 investigations. At the FPPC, I work as a lead and I also

1 help train new staff.

2 Q Okay. Do you review audits that the FTB sends  
3 to the Fair Political Practices Commission?

4 A Yes.

5 Q And why do we receive these audits at FPPC?

6 A Well, under 90004, they are required to send us  
7 a copy of their audit reports. Every audit report that  
8 they adopt or issue, we get a copy of. So we will review  
9 those.

10 Q When you receive an audit from FTB, what do you  
11 do with it? What are your responsibilities when you  
12 receive it?

13 A Well, kind of similar to any other referral, we  
14 call these audit referrals. I will review the actual  
15 audit, the report that we get. I will review the audit  
16 file for -- to see if there's any additional information.  
17 I will review any other documents that we've received  
18 since, any amendments, additional amendments that may  
19 have been filed. It depends on each case. It can be a  
20 little different.

21 So in this case, I would definitely review the  
22 SOS filing history which you discussed earlier. If  
23 there's additional records needed, I will talk to the  
24 case attorney. If there's additional records needed,  
25 we'll request those as well.

1 Q So in your review, how do you confirm or review  
2 the findings of the audit? Are you looking at the source  
3 documents? The filing schedules?

4 A Yes. Like I said, first I will actually review  
5 the audit reports. The audit reports that we actually  
6 will review further are those audit reports that will  
7 include material findings. So FTB will refer those to us  
8 and we will look at that. So I'll start from that and  
9 like I said, I'll look at the actual FTB audit file and  
10 see if there's additional information needed. I'm  
11 looking for facts, whether they're mitigating or  
12 aggravating, or any additional things that I might need  
13 to review.

14 Q Okay. Are you familiar with the FPPC's case  
15 against the Respondents?

16 A Yes.

17 Q Can you tell us why did she have two committees,  
18 the 2013 and the 2014 committee?

19 A One committee was formed for the 2013 special  
20 election and then the special runoff, and the other one  
21 was for the -- I recall the regular election in the even  
22 year for Assembly 2014.

23 Q And why did she need to have two committees  
24 instead of just one?

25 A The law requires that candidates establish a

1 separate committee for each if they qualify as a  
2 committee for each term that they run for office.

3 Q And why was Ms. Shelley's two committees  
4 audited?

5 A The Franchise Tax Board under 90001(d) will  
6 audit the candidates that run for special election for  
7 the legislature and so I believe the threshold is  
8 \$15,000. So any candidate and their control committee  
9 that made that threshold will be audited.

10 Q And did Shelley meet the threshold to be audited  
11 for the two committees?

12 A Yes.

13 Q Referring to the 2013 committee, could we take a  
14 look at Exhibit 16 --

15 A Uh-huh.

16 Q -- and can you tell us what is this document?

17 A It is a Franchise Tax Board audit report.

18 Q And which committee is this an audit report for?

19 A Susan Shelley for Assembly 2013.

20 Q And what is the audit period?

21 A Audit period is January 1st, 2013 through  
22 December 31st, 2013.

23 Q And what were the findings generally in this  
24 audit report?

25 A It looks like there's generally two sections or

1 two findings. Reports and statements, a preelection  
2 statement for the period October 6th through  
3 November 2nd, 2013 was not filed with the Secretary of  
4 State, and there's also three other preelection  
5 statements not timely filed as well. So there's an  
6 exhibit attached to the audit report. In addition to  
7 that, the monetary contributions received has a finding,  
8 that section. Funds totaling 30,900 received via  
9 transfers from the Susan Shelley for 2014 were not  
10 attributed to the specific contributors. That's  
11 basically it. I can go into more detail.

12 Q And did you -- did you review the findings of  
13 this audit?

14 A I did.

15 Q What specifically did you do as part of your  
16 investigation for this audit?

17 A Well, what I do when I receive an audit report,  
18 I will, like I said, review the audit report, but I'm  
19 always looking for additional facts that I will relay to  
20 the case attorney, whether it's mitigating or  
21 aggravating, just any other facts. If I find that  
22 something was disclosed on something else or an amendment  
23 was filed, that's something -- you know, it could be  
24 subsequent to the audit report being released. That's  
25 important facts that I like to bring up to the attorney.



1 I also read the full comments. A lot of times  
2 the candidates or the representative will provide a  
3 comment. The Franchise Tax Board paraphrases it for the  
4 audit report and I like to sometimes read the whole  
5 thing. If they usually provide some additional  
6 information, that would be very helpful.

7 Q What are some of the documents that this  
8 committee needed to file in 2013?

9 A Just overall in general for this, for the race?  
10 So you're talking about 501, that kind of thing?

11 Q Yeah.

12 A So if someone will run for office, they should  
13 file a 501 before they solicit or receive any  
14 contributions, a 410 if they qualify as a committee. I  
15 believe back then it was \$1,000 to qualify for a  
16 committee; it's now recently 2,000. And then once they  
17 qualify as a committee, they have all the campaign  
18 statements and reports that are required to be filed. So  
19 the 460 is the campaign statements; it could be the  
20 semiannuals, and then the preelections and then any  
21 reports like 24-hour reports that would be required as  
22 well.

23 Q And how do you know that this candidate needed  
24 to file preelection statements?

25 A Well, if they're involved in an election,

1 there's going to be preelection statements.

2 Q Okay. And did she need to file paperwork in  
3 more than one format? What was the requirement for the  
4 filing?

5 A Yes. The paper copy is still considered --  
6 especially in 2014 -- '13 -- the official copy for audit  
7 purposes and legal purposes. I forget the regulation or  
8 the law section on that. Yes. And then electronically  
9 if they meet a dollar threshold for the electronic as  
10 well, so they have to file both.

11 Q How did you verify whether or not this committee  
12 filed the required statements?

13 A One of the first things I will do is look at the  
14 FPPC filing schedule and I will also look at the SOS  
15 filing history to see what was filed.

16 Q Okay. And ultimately did you agree with this  
17 report's findings?

18 A I did.

19 Q And why did you agree with the findings?

20 A Like I said, I will look at this very  
21 objectively and see if I see anything else that I need to  
22 bring up, any other factors, and I didn't in this case.

23 Q Okay. Could you refer to Exhibit 11.1? So  
24 that's Exhibit 11 on the side tab and Exhibit 1 on the  
25 bottom row.

1 MS. SHELLEY: I'm sorry. Where are we?

2 MS. GILBERTSON: At 11 on the side.

3 THE WITNESS: And then the exhibit is the point.

4 MS. GILBERTSON: So it should be the first book,  
5 right here. It's going to be this one, I believe  
6 (indicating).

7 THE WITNESS: You said 11.1; right? And the point is  
8 the exhibits below?

9 BY MS. GILBERTSON:

10 Q Correct. Do you recognize this document?

11 A I do.

12 Q And what is it?

13 A It is a preelection statement.

14 Q What is the reporting period for this statement?

15 A At the top, it says from 1/1/2013 through  
16 8/3/2013.

17 Q Okay. And when was this document filed and how  
18 can you tell?

19 A It is stamped 10/4/2013, but it also has a  
20 handwritten "PM," which is my understanding it stands for  
21 "postmark," "10/2/2013" and it's my understanding that  
22 the SOS uses the more earlier postmark date if they have  
23 that.

24 Q Okay. And when was this statement due? If you  
25 need to refresh your memory --

1 A Yes, I do, because it's a special election.

2 Q Exhibit 9 is the filing schedule.

3 A Yes. I don't want to start guessing.

4 Okay. So the period ending August 3rd, 2013, it  
5 was due by August 8th, 2013.

6 Q So it was filed after the deadline?

7 A Correct.

8 Q Okay. Could you look at Exhibit 12.1. Do you  
9 recognize this document?

10 A Yes.

11 Q What is it?

12 A It is a preelection statement.

13 Q Okay. And how would this have been filed?

14 A Since it has no stamp, it looked like it's an  
15 electronically filed statement.

16 Q And what's the reporting period?

17 A The reporting period is 1/1/2013 through  
18 8/3/2013.

19 Q And when was this document filed? How would you  
20 be able to tell?

21 A I'd have to go look at the Secretary of State's  
22 CARS filing history.

23 Q Okay. So you want to -- let's look at  
24 Exhibit 10.

25 A Which one?

1 Q Exhibit 10. And can you tell us when this  
2 statement would have been filed?

3 A Yes. The first one, it would have been filed on  
4 8/19/2013.

5 Q Okay. And so that would have been after the  
6 deadline?

7 A It's also noted at the bottom "executed," but  
8 I'd like to go confirm it with the filing history as  
9 well.

10 Q Okay. Can you also look at Exhibit 11.2. And  
11 which statement is this?

12 A This is an amended preelection statement. You  
13 said 11?

14 Q Yeah. I'm sorry. It would have been -- sorry.  
15 Flip to instead 11.4.

16 A 11.4. Okay. This is a preelection statement.

17 Q For what reporting period?

18 A 9/1/2013 through 10/5/2013.

19 Q And --

20 MS. SHELLEY: I'm sorry. Which one is this? Where  
21 are we? 11?

22 MS. GILBERTSON: I'm sorry. 11.4.

23 MS. SHELLEY: 11.4, and they're in front of the tabs?

24 THE WITNESS: The points are the exhibits at the  
25 bottom.

1 MS. GILBERTSON: Yeah. It would be this one here  
2 (indicating).

3 MS. SHELLEY: Okay.

4 THE WITNESS: I'm sorry. So do you want me to state  
5 the period again?

6 MS. GILBERTSON: No. That's okay.

7 THE WITNESS: So it was a preelection statement.

8 BY MS. GILBERTSON:

9 Q When was this filed?

10 A It's stamped filed on February 7th, 2013, but it  
11 has handwritten "PM 2/6/2014," which my understanding is  
12 it stands for "postmarked 2/6/14," which means that's  
13 what is considered to be the filing date.

14 Q Just to correct, did you say -- I think the  
15 stamped copy was February 7th, 2014; right?

16 A Correct.

17 Q Not '13?

18 A '14, right.

19 Q And when would this statement have been due?

20 A I don't want to guess again. Can I refer back?

21 Q Yes. Please refer to Exhibit 10 -- or I'm  
22 sorry. Is that 9? Yeah.

23 A I'll remember that. 9. It would have been due  
24 on October 10th, 2013.

25 Q So it was filed after the deadline?

1 A Correct.

2 Q Okay. The next statement is at 12.2 --

3 A Okay.

4 Q -- and can you -- what is this document?

5 A It is a preelection statement for the period  
6 9/1/2013 through 10/5/2013.

7 Q And how was it filed?

8 A It also looks like it was filed electronically  
9 and I would confirm that with the filing schedule. It  
10 says "executed" and it's printed on 10/21/2013.

11 Q And when -- according to the files, filing  
12 schedule, which is Exhibit 10, when was this filed?

13 A It was filed on 10/21/2013.

14 Q And when was this statement due? That would  
15 be --

16 A That was the -- it was due on 10/10/2013.

17 Q So it was filed after the deadline?

18 A Correct.

19 Q Okay. Can we go to Exhibit 11 -- let's see --  
20 11.5.

21 A Okay.

22 Q And what is this document?

23 A This is a -- it's marked "quarterly," but it  
24 looks like it's a semiannual. I'm sorry. I just want  
25 to -- so it's a campaign statement.

1 Q And what is the reporting period?

2 A 10/6/2013 through 12/31/2013.

3 Q So that's the statement that the candidate would  
4 have said that this statement covers; correct, the period  
5 that the statement covers?

6 A Correct.

7 Q Okay. What statement was -- what reporting  
8 period was meant to be reported next? And if you need to  
9 look at the next Exhibit 9 --

10 A The next campaign statement would have been due  
11 to cover 10/6/2013 through 11/2/2013.

12 Q And when would that have been due?

13 A November 7th, 2013.

14 Q So in this statement, what was the statement due  
15 after that?

16 A It would have been the semiannual after.

17 Q So can you tell us the reporting period for  
18 that?

19 A That would have been beginning on 11/3/2013  
20 through the 12/31/2013.

21 Q So this is two periods on one statement;  
22 correct?

23 A Correct.

24 Q Okay. And so this statement for the period  
25 10/6/13 through 11/2/13, this is filed after the



1 deadline; correct?

2 A Correct.

3 Q Okay. Thank you.

4 Can we next look at Exhibit 12.3?

5 A All right.

6 Q And what is this document?

7 A I'm sorry. I --

8 Q Sorry. We're jumping around here.

9 A Okay. You said 12 or 11?

10 Q 12.3.

11 A 12.3? Okay. 12.3. Okay. So this is another  
12 campaign statement.

13 Q And what is the reporting period as it's  
14 declared?

15 A It's declared as 10/6/2013 through 12/31/2013.

16 Q And when would this document have been filed?

17 A Let me go back to -- it looks like based on  
18 the -- January 31, 2014, but let me confirm with the  
19 filing schedule. It was electronically filed on  
20 January 31st, 2014 -- correction if I said 2013. 2014.

21 Q So this was after the deadline; correct?

22 A Correct.

23 Q Okay. Thank you.

24 So we'll move on to the 2014 committee. Can you  
25 please look at Exhibit 17? I'm sorry. Nope. That's not

1 right. Oh, yeah. Sorry. Exhibit 17. That's in the  
2 second binder.

3 MS. SHELLEY: Is the 2014 committee in a separate  
4 binder from the 2013 committee?

5 MS. GILBERTSON: It's later in the set of documents,  
6 yes. So 2014 starts at -- this is the audit.

7 MS. SHELLEY: Okay.

8 THE WITNESS: So Exhibit 17 is in binder two.

9 BY MS. GILBERTSON:

10 Q Yes. And what is this document?

11 A This is a Franchise Tax Board audit report.

12 Q And for which committee?

13 A This is for the Susan Shelley for Assembly 2014.

14 Q And what is the audit period?

15 A January 1st, 2013 through December 31st, 2013.

16 Q And are you familiar with this document?

17 A I am.

18 Q Can you tell us what were the findings  
19 generally?

20 A Generally, there were -- there was a preelection  
21 statement for the period October 6 through the  
22 November 2nd, 2013 that was not filed with the Secretary  
23 of State and there was also three preelection statements  
24 that were not timely filed with the SOS.

25 Q Okay.

1           A    And there was also the Form 497 contribution  
2 reports that were not filed with the Secretary of State.  
3 I can go into more detail if you want.  Okay.

4           Q    Did you perform a similar investigation with  
5 this audit report as you did with the 2013 audit report?

6           A    Yes, same.

7           Q    Same process?

8           A    Yes, same process:  Review the audit report,  
9 review the audit files, look for any additional  
10 information, subsequent amendments filed, subsequent  
11 information provided by the filers or anything else that  
12 we might have.

13          Q    Okay.  And ultimately did you agree -- we'll go  
14 back a little bit.

15          A    Okay.

16          Q    Why -- what -- so this committee had an  
17 obligation to file preelection statements.  This was the  
18 2014 committee.  Why did this committee also have to file  
19 preelection statements?

20          A    Well, there is a regulation that covers -- I  
21 think it's --

22          Q    It's okay.

23          A    Anyway --

24          Q    It's in the Act.

25          A    When somebody is filing for an office, they have

1 to file the same statements. It's called -- we call it  
2 the same time for the same place. So in this case,  
3 Ms. Shelley was running for 2013 special election. She  
4 had triggered preelections. So any other controlled  
5 committee -- in this case it would have been her Assembly  
6 committee -- would have to file the same place, same  
7 time.

8 Q And -- why would that have been important that  
9 she also file for that committee?

10 A I wasn't around with the laws and all that  
11 stuff. I'm not an attorney --

12 Q That's okay.

13 A -- but it's information that's needed to be  
14 timely filed so that the voters, any readers out there,  
15 will have that information to see the activity on her  
16 controlled committees, so -- and sometimes there are  
17 transfers. I believe there were transfers in this case,  
18 so -- yeah.

19 Q Okay. So we'll go back to -- I think this is  
20 earlier in this binder, so Exhibit 14.4. Can you tell us  
21 what this document is?

22 A It is a preelection statement for the period  
23 9/1/2013 through 10/5/2013.

24 MS. GILBERTSON: Okay.

25 MS. SHELLEY: I'm sorry.

1 MS. GILBERTSON: It's okay.

2 THE WITNESS: It's okay.

3 MS. GILBERTSON: 14.4.

4 THE WITNESS: Binder two? So I stated the period  
5 it's covered.

6 BY MS. GILBERTSON:

7 Q Thank you. And when was this document filed?

8 A It is stamped by the Secretary of State  
9 February 7th, 2014 and it says "PM 2/6/14."

10 Q Okay.

11 A So, again, "postmarked" is my understanding.

12 Q So as you have already stated earlier, this  
13 statement was due on October 10th, 2013; correct?

14 A Uh-huh.

15 Q And then so this was filed after the deadline?

16 A Correct.

17 Q Okay. Could you next look at 15.1. What is  
18 this document?

19 A It's a preelection statement.

20 Q Okay. For what reporting period?

21 A 9/1/2013 through 10/5/2013.

22 Q And how was it filed?

23 A This appears to be electronically filed.

24 Q Okay. And can we -- when was it filed?

25 A It is -- it shows it was filed on 10/21/2013,

1 but I would again confirm with the Secretary of State's  
2 filing history. That's just what I do.

3 Q So for that committee, if you want to look at to  
4 refresh your memory --

5 A The filing history?

6 Q -- the filing history, which would be exhibit --  
7 sorry. Let me find it.

8 A I need markers.

9 Q Yeah. So it's Exhibit 12 -- no. Sorry.  
10 Exhibit 13.

11 MS. SHELLEY: Exhibit 13. Which number?

12 MS. GILBERTSON: It'll be Exhibit 13 for the filing  
13 schedule.

14 MS. SHELLEY: And which --

15 MS. GILBERTSON: It's just the only one for that.

16 MS. SHELLEY: 15?

17 MS. GILBERTSON: No. 1-3.

18 THE WITNESS: I'm sorry. And we were at what other  
19 exhibit? I just lost my place. It was 15 point --

20 BY MS. GILBERTSON:

21 Q We were at 15.2 for the campaign statement.

22 A Perfect. Thank you. Okay. Okay. And that one  
23 looks like it was filed on, yes, January 31st, 2000- --  
24 hold on a second -- h'm. Well, that's for 2013. It's  
25 stamped -- hold on -- electronic, yeah. So it looks like

1 on the -- see, the filing history would show it is filed  
2 on January 31st, 2014.

3 Q Is it for the period ending 10/5/2013?

4 A Oh, the exhibit I'm looking at, it is on  
5 12/31/2013. So am I looking at the wrong exhibit here?

6 Q I apologize. It's for the reporting period of  
7 September 1st, 2013 through October 5th, 2013.

8 A Okay. Which exhibit is that? 15?

9 Q I'm at -- it should be 14.

10 A I should have put my glasses there. Sorry.

11 THE COURT: Would you like to get your glasses?

12 THE WITNESS: No. I'm using my glasses as a marker  
13 and my glasses slipped out.

14 BY MS. GILBERTSON:

15 Q 15.1?

16 A 15.1. Okay. Thank you. Okay. Now -- so this  
17 is the one preelection statement ending on 10/5/2013 --  
18 got it -- filed electronically. Okay. And it was filed  
19 on 10/21/2013.

20 Q So that was after the due date; correct?

21 A Correct.

22 Q Okay. So we'll go back to Exhibit 14.6.

23 A All right.

24 Q And what statement is this?

25 A This is a statement that covers 10/6/2013

1 through 12/31/2013.

2 Q And when was it filed?

3 A It is stamped February 7th, 2014 and it has "PM  
4 2/6/14."

5 Q And for this -- so this is another statement  
6 where the reporting periods were combined; correct?

7 A Correct, similar to the other one.

8 Q So for the -- what statement was actually due  
9 initially, do you remember?

10 A The next statement would have been due to cover  
11 10/6 through 11/2/2013.

12 Q And when was that due?

13 A 11/7/2013.

14 Q So this was filed after that deadline; correct?

15 A Correct.

16 Q Okay. And then last one, 15.2.

17 A All right.

18 Q And what is this document?

19 A Another campaign statement.

20 Q Okay. For what reporting period?

21 A 10/6/2013 through 12/31/2013.

22 Q And how was this one filed?

23 A Electronically.

24 Q Okay. And when was it -- it was also due  
25 November 7th, correct?



1           A    Yes, for the shorter filing period, but this one  
2 was filed covering all the way through the December 31st,  
3 2013.

4           Q    Right.  And when was this statement filed?

5           A    It was filed on January 31st, 2014 based on the  
6 filing history from the Secretary of State.

7           Q    So after the deadline; correct?

8           A    Correct.

9           Q    Okay.  Moving on from this --

10          THE COURT:  Ms. Gilbertson, I'll stop you now and we  
11 will take the lunch break and I'll allow the court  
12 reporter to rest.

13          MS. GILBERTSON:  Okay.

14          THE COURT:  It seems like a natural stopping place.

15          MS. GILBERTSON:  Okay.

16          THE COURT:  We will return at 1:45.  Thank you.  
17 We're off the record.

18                   (Lunch recess)

19          THE COURT:  Back on the record.

20                 Ms. Bonetti, please resume your seat.  Let me  
21 remind you you remain under oath.

22          THE WITNESS:  Yes.

23          BY MS. GILBERTSON:

24                 Q    Can you tell me, do the Respondents have any  
25 prior enforcement history with the FPPC?

1 A I didn't find any.

2 Q Okay. And how did you confirm that they had no  
3 prior enforcement history?

4 A That's one of the things I do if it's an  
5 investigation or a referral. I will look to see if  
6 there's any prior history, whether it's warning letters,  
7 advice letters, stipulations. A lot of time my searches  
8 will find if there's advice, if they sought advice as  
9 well. That's it -- oh, through our FPPC website, Google,  
10 and also through our salesforce database.

11 Q And sales force is?

12 A Enforcement database.

13 MS. GILBERTSON: Okay. All right. And that's all I  
14 have for this witness.

15 THE COURT: Thank you very much.

16 Ms. Shelley, your witness.

17 MS. SHELLEY: Thank you very much.

18

19 CROSS-EXAMINATION

20 BY MS. SHELLEY:

21 Q Ms. Bonetti, I heard you say before we broke for  
22 lunch as we were looking for a particular date "Refresh  
23 my memory, because it's special election and I don't want  
24 to start guessing and I don't want to guess again." Why  
25 is it more difficult to remember the date for special

1 elections?

2 A Because the -- I'm probably more -- kind of  
3 roughly -- the dates change, when the due dates are, and  
4 also when the ending of the closing period will end.  
5 They can slightly change for a regular election. With  
6 "regular," I mean even year.

7 Q And you've been doing this -- I'm sorry. Go  
8 ahead.

9 A Right. They can slightly change, but I know for  
10 a special, specials can be held any time. They're not  
11 necessarily in June, not necessarily in November. So  
12 they can be held, you know, I guess -- I believe it's the  
13 governor who sets them for the Assembly. So they can be  
14 at any given date that they set, so then the filing  
15 periods will be according to the law.

16 Q And what is the regular -- the regular time  
17 interval between preelection reports for the  
18 regular-cycle election?

19 A Generally there's two preelections that are  
20 required for before an election and there's a semiannual  
21 after. That's called the post.

22 Q And were the special election reporting  
23 deadlines in this date closer together than typically  
24 they would be for a June/November or March/November  
25 cycle?

1           A    I didn't even -- I don't -- you know, I don't  
2 want to make that kind of a guess, but I'm just -- I'm  
3 just more familiar with the regular ones, so yeah --

4           Q    Ms. Bonetti, how long have you worked for the  
5 FPPC and how long have you been in your current position?

6           A    About 20 years for the FPPC.

7           Q    So if you're finding it a little difficult to  
8 keep track of when the special election calendar is,  
9 would you expect that someone who's a first-time  
10 candidate and not a professional in campaign finance  
11 would find it challenging?

12          A    You know what I would say? This -- this is --  
13 on all our filings and one of the things I do when I talk  
14 to a special -- especially new candidates, on all our  
15 filings at the very bottom, it has our website and our  
16 phone number and all our links and I always say go to  
17 that and I think the very first filing is usually the 501  
18 and then the 410. All those are on there, and one of the  
19 things I always advocate is go to our website and it has  
20 all the information. You don't have to re-create it,  
21 including the filing schedules.

22          Q    When you say there are links --

23          A    Yes.

24          Q    -- are there links to the specific filing -- are  
25 there any links to the specific filing schedules for the

1 special election or any election or is there just a link  
2 to FPPC.ca.gov?

3 A Well, the forms are standard forms. So if you  
4 have a campaign statement, the form would be used for any  
5 election, for example, special. It could be a runoff.  
6 It's the 460 at the top. You would mark down if it's a  
7 preelection, a semi, or a semiannual, but the link is to  
8 our FPPC website and that has all kinds of information  
9 for the filers.

10 Q So when you follow a link to a form, does the  
11 form have a date on it when it has to be filed for the  
12 next election?

13 A The link is to the FPPC website, the main page,  
14 and then it has all the icons that people can link into.

15 Q So someone who was looking for the filing  
16 schedule for a particular special election, knowing that  
17 it's unusual, that it's not the June/November and you  
18 don't have all the candidates in all the races doing it  
19 all at the same time with all the media coverage of when  
20 they'll be reporting --

21 A Uh-huh.

22 Q -- how difficult would it be for someone to find  
23 the filing schedule on the website if they went to the  
24 front page? How many layers down is it?

25 A I'm not familiar, especially back then in 2014.

1 There's also a toll-free number on all our forms, every  
2 single form, and I think it's pretty much all the  
3 documents that we put out and it's toll free, so I always  
4 advise people. My audits are, I consider, mostly  
5 educational. So whenever I'm out in the audit -- for an  
6 audit, I always remind people, especially small campaigns  
7 that can't afford all the professionals, I always advise  
8 them to call. That's what we're there for.

9 Q And did you reach out to any of the campaigns in  
10 the 2013 special election to tell them that there was a  
11 filing schedule that they could find online?

12 A That's not in my -- that's not my job. I'm in  
13 Enforcement. So my understanding, it's -- there's -- I  
14 forget the number. It used to be called Technical  
15 Assistance, the FPPC, and that's what they do. They  
16 create these and Legal reviews them, is my understanding,  
17 and posts them and that's their -- that's what they do.  
18 I'm in Enforcement, so I'll get cases, referrals, you  
19 know, audit referrals. So that's not my -- part of my  
20 duty.

21 Q So as a candidate, I sent an e-mail to the  
22 advice.FPPC.ca.gov, which I found on the Secretary of  
23 State's website because I was looking on the Secretary of  
24 State's website. Other things were on the Secretary of  
25 State's website --

1 A Uh-huh.

2 Q -- but the filing schedule for the preelection  
3 reports, is that on the Secretary of State's website?

4 A I don't usually use the Secretary of State's  
5 website. Only for -- to confirm the results of elections  
6 and to confirm if something is filed or not. I don't go  
7 to them to see if there's filing schedules because I know  
8 we have them on ours. So other people might, but I  
9 don't.

10 Q The Form 700 is on the Secretary of State's  
11 website; is that correct?

12 A The form what?

13 Q 700, the statement of financial interests --

14 A Yeah.

15 Q -- financial disclosure?

16 A I don't work with those. I work with campaign  
17 cases, not conflict cases. So we have the 700 form I  
18 believe as well on ours, so --

19 Q And the statement --

20 A And all the forms should be on our website. In  
21 addition, I don't know what links SOS has. I know they  
22 have some. I'm not real familiar with exactly -- I'm not  
23 familiar with all the forms that they might have or links  
24 that the SOS might have, so I wouldn't want to guess.

25 THE COURT: I'd just ask you to allow her to

1 finish --

2 MS. SHELLEY: I'm sorry.

3 THE COURT: -- with her question so that the record  
4 is clear.

5 MS. SHELLEY: Sorry about that. Are we good? Okay.  
6 Ready.

7 BY MS. SHELLEY:

8 Q You said you looked for facts --

9 A Uh-huh.

10 Q -- and in the Accusation under "General Facts"  
11 on page 4, it says, "Candidates wishing to raise funds  
12 before July 2013 to campaign for Blumenfeld's vacated  
13 Assembly seat were instructed to first establish 2014  
14 campaign committees, then transfer the funds to 2013  
15 campaign committees once Blumenfeld officially vacated  
16 the seat." Did you read the Accusation?

17 A I believe I did, yes.

18 Q Did you know this?

19 A I'm sure I did -- what -- I take each case and  
20 I -- I kind of like with an onion, I go through each case  
21 because each case is very different. So this case is  
22 different than any other case I've worked on. So yeah, I  
23 look at every single one, the facts for that case. So  
24 yes, I looked at the Accusation.

25 Q So you knew that and yet didn't you testify



1 earlier that I had intended to run in 2014 and then ran  
2 in 2013 for the special election --

3 A Well, when somebody files --

4 THE COURT: Hold on. Let her finish her question.  
5 Go ahead.

6 MS. SHELLEY: Let me repeat it.

7 BY MS. SHELLEY:

8 Q Did -- when -- I believe you testified earlier  
9 that you knew that I had filed to run with an intention  
10 to run in 2014 and then ran in 2013 and that's why I had  
11 two committees. Is that your understanding, that it was  
12 my intention to run in 2014?

13 A When -- when a candidate files campaign  
14 statements for two different committees and one says 2013  
15 and one says 2014, that's pretty clear that they're  
16 intending to run for those.

17 Q Well, the Accusation acknowledges -- and this is  
18 my understanding; this is what happened to me  
19 personally --

20 A Uh-huh.

21 Q -- that candidates wishing to raise funds --

22 A I guess I'm misunderstanding the question. I'm  
23 sorry. I apologize. I'm not trying to be difficult.

24 Q Let me back up just to be factually clear.

25 The vacated Assembly seat was delayed because

1 Mr. Blumenfeld ran in 2012 for reelection --

2 A Okay.

3 Q -- and he ran for the city council in  
4 Los Angeles in a March 5th cycle immediately after. So  
5 he ran in November for the seat in Sacramento and he ran  
6 in March for the seat. The primary was in March for the  
7 city council seat, March 5th, I believe.

8 A Okay.

9 Q It was well known in the district that  
10 Mr. Blumenfeld would be resigning and there would be a  
11 special election because he was termed out in 2014 and he  
12 was running for the city council and he won the city  
13 council seat clear without a runoff on March 5th. Did  
14 you know that?

15 A Probably at the time, but I don't recall, no. I  
16 don't recall all the facts regarding -- what was it  
17 again? Blooming --

18 Q Blumenfeld?

19 A Yeah. I don't recall all that.

20 Q He was a member of the Assembly representing the  
21 45th District. This was the seat that was vacated. He  
22 won the city council seat on March 5th. He did not  
23 resign until June 30th.

24 A What I generally do is confirm there was an  
25 election, confirm the filing requirements. I don't

1 confirm why the governor calls it, when he calls it. I'm  
2 not sure about -- is that what you're asking?

3 Q You were looking for facts that were unique  
4 about this election. Isn't that what you testified?

5 A Yeah, but there's a certain -- there's certain  
6 facts to this case, to this -- you know, to your  
7 campaign. So once an election -- a special election is  
8 called, then there's certain requirements of filings.  
9 That's what I'm concerned with. Was there an actual  
10 special election on that day? So if the audit report  
11 says certain things, I'll confirm that. What -- you  
12 know, was there an election? What were the filing  
13 requirements? I'm not sure I need to go into whether --  
14 so I guess I'm missing the question. I'm not sure if I  
15 need to --

16 Q The question is did you believe that candidates  
17 running in this race such as myself intended to run in  
18 2014 when they opened campaign committees as I did in  
19 January of 2013? Did you believe that I intended to run  
20 in 2014?

21 A Well, if they filed the 501 and they sign under  
22 penalty of perjury that they're running --

23 Q But it says here candidates were instructed.

24 A Right.

25 Q Do you know who instructed them?

1 A No. I imagine it was Legal. It was Legal --

2 Q Well, in my case, it was the Secretary of  
3 State's office --

4 A Okay. Okay.

5 Q -- because I inquired.

6 A And my understanding -- I don't -- I would  
7 imagine if there hasn't been something called yet,  
8 there's no election set, people want to raise money. I  
9 mean, is that what you're saying?

10 Q That's what I'm saying. I'm saying there was a  
11 period of time --

12 A Yeah.

13 Q -- of virtually a year --

14 A Uh-huh.

15 Q -- when it was well known that Mr. Blumenfeld  
16 would be vacating that Assembly seat. He was the  
17 favorite to win and he did win outright on March 5th.

18 A Right.

19 Q Many of the campaigns in this race opened two  
20 committees. Did you look at the other committees? Did  
21 you look at the other campaigns?

22 A They were audited by the Franchise Tax Board and  
23 subject to the same laws and audited for the same  
24 purposes.

25 Q And did you wonder -- when you were looking for

1 facts that made this case different that were relevant,  
2 did you wonder why all the candidates had two committees?

3 A The other candidates did not have -- I didn't  
4 get those assigned and my understanding, they had audit  
5 reports with no findings, no material findings. So there  
6 was no reason for me to even inquire. It's my  
7 understanding you have to raise money for a purpose. And  
8 so I can see what -- why it would be -- they were advised  
9 to -- again, I'm not part of that advice, why they would  
10 be advised to raise money into the 2014 and then transfer  
11 to the 2013, but I did not review those others for those  
12 purposes.

13 Q But do you acknowledge what's in the Accusation,  
14 that candidates were instructed to do that,  
15 notwithstanding that they had to sign under penalty of  
16 perjury that they intended to run in 2014?

17 A I believe I've -- I've seen some advice  
18 regarding that. I'm not sure if it was an advice letter  
19 or some sort of information, yes.

20 Q You have seen it?

21 A I believe I've read something about that fact.

22 Q So you did know the candidates were instructed  
23 to raise money for the 2013 campaign in a 2014 committee?  
24 You did know that?

25 A I don't know if I would have -- I mean, I'm

1 sure -- again, it's been a while since I initially looked  
2 at it and so -- but when you asked me about the other  
3 candidates, I never looked at the other candidates.  
4 Again, those cases were not assigned to me and we  
5 wouldn't even open a case because they had gotten audit  
6 reports that had no material findings.

7 Q So when you looked at this case, when you looked  
8 at the 2013 committee and the 2014 committee, you  
9 indicated in your testimony before lunch that you looked  
10 at them separately, first one and then the other; is that  
11 correct?

12 A Or -- yeah. They were both, yeah, given to me  
13 simultaneously.

14 Q So you looked at them as individual entities?

15 A Yeah. Yeah, or at the same time. I'm not sure  
16 what your question is going to be, so I don't want to say  
17 I did because they're both probably sitting on my desk.

18 Q Did you put them side by side and say --

19 A I don't recall. I'm sorry. I'm not trying to  
20 be difficult. I really, truly don't recall.

21 THE COURT: Please allow her to finish the question.

22 Ms. Shelley, can you repeat your question from  
23 the beginning?

24 BY MS. SHELLEY:

25 Q When you looked at the two committees, you

1 looked at them one and then the other or you looked at  
2 them side by side?

3 A I truly don't recall.

4 Q Candidates were instructed, according to the  
5 Accusation, and that was my experience, to first  
6 establish 2014 campaign committees and then transfer the  
7 funds to the 2013 campaign committees. What this means  
8 is that the money that was raised in the 2014 committee  
9 prior to July was for the 2013 campaign. So all the  
10 money that was disclosed -- and I disclosed it in a  
11 report that I thought I had to do on 4/22. I thought I  
12 had to do a quarterly report. You noticed earlier that  
13 something was marked "quarterly." I thought I had to do  
14 quarterly reports, in my inexperience. I filed on  
15 4/22/13 that I had made a loan of \$30,000 and other  
16 donations that had come in --

17 A Uh-huh.

18 Q -- and this was for the 2013 campaign and it was  
19 disclosed on 4/22/13 for a primary that was eventually  
20 set to be September 17th and in order to legally spend  
21 the funds on the 2013 campaign, they had to be  
22 transferred. That's what we were told. Would it be  
23 legal to spend money from the 2014 campaign on the 2013  
24 campaign?

25 A My understanding --

1 Q Would that be legal?

2 A My understanding is the money you raised for  
3 each one, you spend it; but you are allowed to transfer,  
4 yes.

5 Q So the transfer was a legal requirement of this  
6 peculiar and unique situation where there was a three- or  
7 four- or six-month period depending on how soon you  
8 thought it was a sure thing that he would resign. You  
9 had to raise money for the 2013 special election in the  
10 2014 committee and then you were required to transfer it  
11 and we were instructed. Did you find that fact when you  
12 were looking for facts about this case?

13 A To be honest with you, I didn't go too far into  
14 that because I initially review the case, discuss it with  
15 the attorney, and if the attorney needs additional  
16 information, I'll go there, but I get a fair  
17 understanding of what happened.

18 So I apologize if I don't recall exactly all the  
19 details because it's been some time and generally  
20 speaking when we go forward on a case, then I would be  
21 very familiar with the violations we're going forward on  
22 in charging, and it's very common in cases that we  
23 don't -- we may not pursue everything in an audit report  
24 or in a complaint, in allegations. So I will continue  
25 moving forward and being familiar with what we are going



1 forward with in charges.

2 So I apologize. I don't know all the details.  
3 I'm not trying to be difficult. I don't remember if I  
4 put them side by side or --

5 Q So just to be clear, you don't remember if you  
6 looked at them side by side to see the fundraising and  
7 the transfers?

8 A I'm sure I did a lot of comparisons of some  
9 sort, but I don't know exactly how I looked at them. I  
10 mean, both of them came to my desk at the same time.

11 Q And you don't recall who instructed the  
12 candidates to do it this way, although you say you did  
13 know because you read the Accusation. You did know?

14 A Yeah. I know I've read that and it might be --  
15 you know, I get familiar with a lot of information and it  
16 may be from a prior case and I could have also looked it  
17 up just to confirm for this case, too, but I don't recall  
18 specifically. But I remember situations like that  
19 where -- where the election hasn't been set yet.

20 Q So today, knowing that my campaign filed -- my  
21 2014 committee filed a quarterly report on 4/22/13 and a  
22 semiannual or another quarterly report on 7/30/13, I  
23 believe it was, or 7/31, knowing that today, that I was  
24 raising money for the 2013 campaign in a 2014 committee  
25 at the instruction of State officials, knowing that

1 today, do you think those funds were disclosed adequately  
2 to the public prior to the September 17th primary?

3 A I'd have to go to the specific -- I don't know  
4 what to -- I'd like to go to the specific --

5 Q Please look.

6 A Which one are we looking at now?

7 Q The 4/22/13.

8 A Do you know what exhibit it is by chance?

9 Q It's in the 2014 committee.

10 MS. GILBERTSON: That'll be in Exhibit 20.

11 THE WITNESS: Exhibit 20? Sorry. I'd like -- and  
12 which one?

13 BY MS. SHELLEY:

14 Q The Report 460 marked "Quarterly report filed on  
15 4/22/13."

16 THE COURT: Ms. Gilbertson, for the sake of  
17 efficiency, if you know where the witness should look --

18 MS. GILBERTSON: Yeah. I was looking now. I'm  
19 sorry. It's not in Exhibit 14. It'll be --

20 THE WITNESS: Ms. Shelley, in the meantime, can you  
21 repeat the question?

22 MS. GILBERTSON: It'll be 14.1.

23 BY MS. SHELLEY:

24 Q The question is do you recognize, looking at it  
25 today, that this amount of money, if you look at the

1 loans and you look at the contributions --

2 A Uh-huh.

3 Q -- do you acknowledge that this was raised for  
4 the 2013 election, the primary which was on  
5 September 17th, 2013?

6 A It would be -- it was raised prior to the --

7 Q Prior to the opening, prior to the election  
8 being called?

9 A So, yeah, these amount -- this amount of money,  
10 I'm looking at the campaign statement for the 2014  
11 Shelley committee and it covers January 1, 2013 through  
12 3/31/2013.

13 Q Through 3/31/13?

14 A Yes.

15 Q Through March 31st, 2013?

16 A Right.

17 Q So everything that is in that report was  
18 disclosed to the public, fully disclosed to the public as  
19 of the filing date which was 4/22 through the period of  
20 March 31st. And take a look at the loan page and see  
21 what's disclosed there, please.

22 A \$25,000 loan.

23 Q From?

24 A Susan Shelley.

25 Q The total amount of money raised for the 2013

1 campaign in both committees was 99,091, I believe,  
2 according to the auditor. So what percentage is \$25,000  
3 of a \$99,000 campaign?

4 A About just under 25.

5 Q Just under 25 percent, and this was fully  
6 disclosed. This loan, this amount was fully disclosed to  
7 the public on 4/22/13 for a primary that was scheduled  
8 September 17th. Do you acknowledge that?

9 A This information was disclosed before the  
10 special on September 17th.

11 Q And what's the total of the monetary  
12 contributions on that form?

13 A \$30,523.55.

14 Q Is that -- that's the loan --

15 A That's the -- you said the total contributions?

16 Q What were the total contributions?

17 A That is the total contributions reported.

18 Q Reported. Okay. Now, would you please look at  
19 the report that was filed on 7/30/13.

20 THE WITNESS: Do you know where it's at?

21 MS. GILBERTSON: I'm looking now. 14.3.

22 THE WITNESS: Okay. What was it, 14.3? Got it.

23 BY MS. SHELLEY:

24 Q And what is the total amount disclosed in that  
25 report?

1 A So you're saying total contributions reported?

2 Q Total contributions reported.

3 A 3,225.

4 Q And does that include the loan or is the loan on  
5 a different page?

6 A That's on the year-to-date.

7 MS. GILBERTSON: Was this for the '14 committee or  
8 the '13?

9 MS. SHELLEY: This is the '14 committee. We're  
10 looking at the '14 committee filed on -- is it 7/30 or  
11 7/31?

12 THE WITNESS: Oh, no. This is the one that's the  
13 period ending 8/3/2013 for the '14 committee.

14 BY MS. SHELLEY:

15 Q That's not the one. The one is a 460. I have  
16 it in my --

17 A Exhibit --

18 MS. GILBERTSON: Was it for ending August --

19 MS. SHELLEY: It was the period ending 6/30.

20 MS. GILBERTSON: I'm sorry. It's before that. It's  
21 14.2.

22 THE WITNESS: Yeah. 14.2.

23 BY MS. SHELLEY:

24 Q Would you look at the loan page?

25 A Yep.

1 Q Do you see a loan of \$5,000?

2 A Yes.

3 Q Who is that from?

4 A Susan Shelley.

5 Q So that loan was disclosed on 7/30/13.

6 A The -- the statement was filed on August 2nd,  
7 2013.

8 Q No, that's the wrong one.

9 A You're looking electronically?

10 Q A Form 460 semiannual report on July 30th, 2013.

11 A Oh, excuse me. It's postmarked. Yes,  
12 7/31/2013. My apologies. Yes. It's postmarked as  
13 handwritten.

14 Q You see the \$5,000 loan?

15 A I do.

16 Q And what is the total amount year-to-date raised  
17 through 7/30/13 in the 2014 committee?

18 A You mean through 6/30?

19 Q Through 6/30, yes. I'm sorry.

20 A Yearly, 40-.

21 Q Yearly, 40-?

22 A You're saying in total for the full calendar  
23 year?

24 Q The year-to-date for the 2014 --

25 A Yeah.

1 Q -- committee through that semiannual report.

2 A Yes.

3 Q Maybe you're not as familiar as I thought.

4 So forgive me for not looking at it. I'll lose  
5 my train of thought.

6 A Yes.

7 Q So nearly --

8 THE COURT: Let me stop both of you. It's really  
9 important for only one person to speak so that the record  
10 is clear. So I know in ordinary language you sometimes  
11 comment or say "okay" or a "yes," but please don't do  
12 that, and you need to get to the end of your question --

13 MS. SHELLEY: Okay.

14 THE COURT: -- so --

15 MS. SHELLEY: Okay.

16 THE COURT: So she knows it's time to answer your  
17 question.

18 THE WITNESS: My apologies.

19 MS. SHELLEY: I apologize.

20 BY MS. SHELLEY:

21 Q So almost \$40,000 was disclosed to the public  
22 on -- for the 2014 committee, which was raised for the  
23 2013 election, and \$40,000 was disclosed on 7/30 or 7/31,  
24 as you show it there, and you acknowledge that this money  
25 was raised for the 2013 campaign at the instruction of

1 State officials.

2 A Can I answer that? My understanding is a 2014  
3 committee was opened. And I have seen information  
4 regarding if an election I guess is not called and I know  
5 there's much anticipation for candidates for an election  
6 to be set and I believe it's the governor that would set  
7 this. So my understanding is it -- I've seen some  
8 information where that says you can raise money and  
9 establish a committee for the regular -- I call it the  
10 regular meeting, the even number, and then transfer it  
11 for the special.

12 I don't recall if I did, you know, when I did  
13 the research for that here, again, because I usually stay  
14 very focused on the charges that we are going to be -- or  
15 the violations we are going to pursue. So that's usually  
16 my focus at that point, especially after I have  
17 conversations with the case attorney. Okay?

18 So I don't want to -- I didn't say that these  
19 funds were raised for another election. That's not  
20 something -- I didn't go through all of these  
21 contributions. I didn't do an investigation, talk to the  
22 investigators or talk to any contributors to find out.  
23 That's not what I did here.

24 Q How much -- how much money was transferred to  
25 the 2013 committee from the 2014 committee?



1 A How much funds what?

2 Q How much money was transferred over the course  
3 of the 2013 campaign? How much money was transferred to  
4 the 2013 committee so it could be legally spent?

5 MS. GILBERTSON: Objection. She's just testified  
6 that she didn't do this type of investigation. She would  
7 not know the answer to that.

8 THE WITNESS: Yeah. I'm sorry --

9 THE COURT: Let me rule on the objection. Sustained.

10 You can rephrase the question if you'd like.

11 BY MS. SHELLEY:

12 Q Almost \$40,000 of a campaign that spent in the  
13 2013 election cycle --

14 A Uh-huh.

15 Q -- \$99,000 -- raised rather \$99,000. Almost  
16 \$40,000 was disclosed to the public fully by July 30th,  
17 2013. Do you acknowledge that?

18 A I think we went through it already, so whatever  
19 I --

20 Q Okay.

21 THE COURT: If you know, you may answer.

22 THE WITNESS: I already answered that I think. I'd  
23 just like to stick to the facts. So -- yes. About --  
24 about \$37,343 was disclosed by 7/31/2013 on the 2014  
25 committee --

1 BY MS. SHELLEY:

2 Q And --

3 A That's the statements.

4 Q And that's roughly 40 percent of what the 2013  
5 committee raised overall?

6 THE COURT: If you know.

7 THE WITNESS: Yeah. Again, I'd have to go back to  
8 see the amount transferred, but -- yeah. Again, I don't  
9 want to do a review here, so I'd have to go back and see  
10 how much was transferred. So I'm taking your word on  
11 that.

12 MS. SHELLEY: I think -- no more questions.

13 THE COURT: All right. Anything on Redirect?  
14

15 REDIRECT EXAMINATION

16 BY MS. GILBERTSON:

17 Q Just to reiterate I think something we had said  
18 earlier, why was Ms. Shelley required to open two  
19 committees?

20 A Well, when I see two committees, I generally  
21 look at the 501, the 410, and the 501 will tell me what  
22 they're running for and that's signed under penalty of  
23 perjury. If I have an indication -- and it happens with  
24 locals. Where there is an anticipated special election  
25 to run for, there might be more information there, but

1 all I can do is go based on the filings that someone is  
2 running for the election.

3 MS. GILBERTSON: Okay. I don't have any more  
4 questions for Ms. Bonetti.

5 THE COURT: I have a couple of questions for you.

6 THE WITNESS: Sure.

7 THE COURT: So you spoke about you're looking for  
8 mitigating or aggravating circumstances when you first  
9 evaluate a potential enforcement case.

10 THE WITNESS: Uh-huh.

11 THE COURT: So if I understand Ms. Shelley's  
12 question, she's saying that there was some difficulties  
13 with this particular set of reportings because the  
14 initial 2014 reportings were then in a sense moved over  
15 to the 2013 committee in order to allow her to run for  
16 what appeared to be likely an open seat and likely a  
17 special election.

18 THE WITNESS: Election.

19 THE COURT: Is that -- whether for Ms. Shelley or  
20 anybody else, would that be considered a mitigating or  
21 aggravating circumstance?

22 THE WITNESS: I would say those are -- that's -- it's  
23 considered, Hey, there's a special election. It's  
24 difficult for me to answer because yes, I mean, those are  
25 factors to consider, but sometimes an election is called

1 right away and set and the filing information is out  
2 there and sometimes they will have committees, you know,  
3 set up a committee and then transfer the money later on.

4 But it's -- we deal with a lot of candidates who  
5 will file for future elections, so that's real common.  
6 I'm not going to guess whether somebody will run for that  
7 office or not. They can change their mind, I can  
8 imagine, and decide to run for the 2014 election after  
9 all. It's very common. I'll look at a candidate and  
10 they have something open for it's like every two years  
11 and all the way up to, you know, they might be a sitting  
12 mayor and they've got all the way up to governor.  
13 They're going to run way out there.

14 It's not for me to say whether somebody's not  
15 going to run and they're raising money and later they're  
16 going to transfer because they're running for this office  
17 or not that office. There's a lot that goes on and I  
18 can't really guess what goes on with someone's plans or  
19 political career. So I don't want to go into that  
20 speculation.

21 THE COURT: Right. You shouldn't speculate.

22 Another question: Once candidates began to form  
23 committees for the 2013 special election, where was the  
24 list of filing dates?

25 THE WITNESS: They're in the law and then we have

1 regulations as well. And in addition to that, the  
2 Commission -- again, not the Enforcement Division. The  
3 Commission will prepare these filing schedules and post  
4 them as well. I think there might be links on the  
5 Secretary of State's website as well and they might even  
6 have them on the counter. I have seen sometimes handouts  
7 and things like that.

8           Again, I don't go to the Secretary of State  
9 looking for that information, so I don't want to speak  
10 for that.

11           THE COURT: But as far as the information on the FPPC  
12 website, is it posted prior to the first due date for  
13 that committee?

14           THE WITNESS: You know, I don't want to misspeak  
15 because by the time I get a case, it's already after an  
16 election by the time I'm looking at that.

17           THE COURT: So you don't know?

18           THE WITNESS: But I just know -- put it this way. In  
19 the old days when I was working on cases, we actually had  
20 to figure all this out on our own before we did audits.  
21 What were the required filings based on the law and  
22 regulation and then what did they file? And the FPPC  
23 would prepare some of it but generally for the very --  
24 for the June and November general elections, you know, in  
25 the even years.



1 I'm also going to run for the 2014.

2 That would be -- that's common, yes. That  
3 happens a lot and somebody running for mayor might also  
4 run all the way up to governor. Whether they -- you  
5 know, I'm assuming they intend to run for it. Sometimes  
6 they don't. They terminate and they transfer funds, you  
7 know.

8 So yes, it's normal for many of them to have  
9 many committees out there. Sometimes they also run for  
10 Congress. I'm just --

11 THE COURT: Anything further, Ms. Shelley?

12 MS. SHELLEY: No.

13 THE COURT: Anything further, Ms. Gilbertson?

14 MS. GILBERTSON: No.

15 THE COURT: All right. You're excused. Thank you  
16 very much.

17 MS. GILBERTSON: Your Honor, Complainant rests the  
18 case, subject to Cross-Examination of Susan Shelley if  
19 she testifies and any witnesses she presents.

20 THE COURT: Thank you.

21 Ms. Shelley, are you ready to proceed?

22 MS. SHELLEY: I would prefer, if it's all right with  
23 you, Judge Ghaly, if we could start fresh tomorrow  
24 morning. We have a lot to process and go through and  
25 we've been at this since 9:00.

1 THE COURT: Well, we normally go the full day --

2 MS. SHELLEY: Full day?

3 THE COURT: -- and I don't -- I don't think there's  
4 a -- well, let me hear from Complainant's counsel.

5 MS. GILBERTSON: I would prefer to use the full day.

6 THE COURT: I think we'll need to do that then.

7 MS. SHELLEY: All right. Then we're ready to go.  
8 Could we take a 15-minute recess? Would that be all  
9 right?

10 THE COURT: Yes. We can do that. We will reconvene  
11 in 15 minutes, and we are off the record.

12 (Recess)

13 THE COURT: All right. We're back on the record.

14 Ms. Shelley?

15 MS. SHELLEY: Thank you very much.

16 Well, as I have stated already, I was a  
17 candidate in the 2013 special election and was instructed  
18 by the Secretary of State's office to open a 2014  
19 committee in order to legally raise funds for the 2013  
20 race.

21 THE COURT: Ms. Shelley, I'm really sorry to  
22 interrupt your opening. I just want to remind you that I  
23 can't accept testimony in the course of an opening  
24 statement. It has to be under oath, so this time is  
25 usually just for presenting an overview of what evidence



1 you intend to present. You don't have to do it.

2 MS. SHELLEY: Okay.

3 THE COURT: It's not going to make a difference one  
4 way or the other and you're not expected to learn trial  
5 advocacy overnight.

6 MS. SHELLEY: I appreciate that. Thank you.

7 THE COURT: So whatever is comfortable for you, but I  
8 just don't want you to have to repeat literally word for  
9 word --

10 MS. SHELLEY: Well, then let me ask you a question,  
11 because I don't know. All of the things that were filed  
12 with the Court in my Respondent's brief, all of those  
13 supporting documents, do I have to reintroduce any of  
14 those or are those in the record?

15 THE COURT: I think we're going to have to go through  
16 them to see what you intend to proffer into evidence and  
17 then we'll take it from there.

18 MS. SHELLEY: All right.

19 THE COURT: So would you like to begin by going  
20 through your documents?

21 MS. SHELLEY: Yes, let's do that.

22 THE COURT: Let me just switch around things.

23 MS. SHELLEY: Judge Ghaly, would you like another  
24 copy of it? I have one --

25 THE COURT: I have your packet here. Are these the

1 documents you intend to produce?

2 MS. SHELLEY: It's like about a hundred pages of  
3 documents that followed the Respondent's brief. Do you  
4 have that?

5 THE COURT: Oh, you have it attached to your brief?

6 MS. SHELLEY: Right.

7 THE COURT: H'm. Do you have a printout?

8 MS. SHELLEY: Yes.

9 THE COURT: All right. Let's use that.

10 Do you have a copy?

11 MS. GILBERTSON: I do.

12 THE COURT: All right. All right. Thank you very  
13 much.

14 MS. SHELLEY: Okay. Shall I begin?

15 THE COURT: Yes.

16 MS. SHELLEY: The first document is page 12 of the  
17 Amended Report in Support of a Finding of Probable Cause,  
18 Exculpatory and Mitigating Information. I'd like to  
19 introduce that if it's not already on the record.

20 THE COURT: All right. Since this was part of the  
21 documents for jurisdictional purposes only, I assume it  
22 should be and it's a single page. I'm going to mark it  
23 as Respondent's Exhibit A for identification unless  
24 there's an issue with that.

25 MS. GILBERTSON: No objection.

1 THE COURT: All right. And you wish to admit it into  
2 evidence?

3 MS. SHELLEY: Yes, please.

4 THE COURT: No objection to that?

5 MS. GILBERTSON: No.

6 THE COURT: All right. It is admitted.

7 (Respondent's Exhibit A was marked  
8 for identification by the Court and received in  
9 evidence.)

10 MS. SHELLEY: The second document is an e-mail  
11 titled, "Reporting Question for Special Election  
12 September 17th in AD 45" and this shows an e-mail from me  
13 to the Advice Division on August 16th, 2013 and a  
14 response on August 19th at 6:44 p.m. -- 6:44 a.m. Excuse  
15 me.

16 THE COURT: This is a four-page document?

17 MS. SHELLEY: No. This is a one-page document.

18 THE COURT: Just the one page? All right.

19 MS. SHELLEY: Should we go through them separately?

20 THE COURT: No. If it's intended to be separate,  
21 that's fine. That's my mistake.

22 MS. SHELLEY: Separate.

23 THE COURT: So that's an e-mail --

24 MS. SHELLEY: Exhibit B?

25 THE COURT: -- dated 8/19/2013.

1 MS. SHELLEY: Right.

2 THE COURT: I'll mark it B for identification. Any  
3 objection to its admittance?

4 MS. GILBERTSON: No.

5 THE COURT: It is admitted.

6 (Respondent's Exhibit B was marked  
7 for identification by the Court and received in  
8 evidence.)

9 MS. SHELLEY: Thank you.

10 Next is an e-mail from the Technical Assistance  
11 Division responding to my e-mail of Monday, August 19th  
12 at 11:27 p.m.

13 THE COURT: All right. I'll mark this e-mail which  
14 is dated 8/20/2013 at 1:40 p.m. as Exhibit C for  
15 identification. Any objection to its admittance?

16 MS. GILBERTSON: No.

17 THE COURT: It is admitted.

18 (Respondent's Exhibit C was marked  
19 for identification by the Court and received in  
20 evidence.)

21 MS. SHELLEY: Next is an e-mail entitled, "Request  
22 for Advice."

23 THE COURT: I'll mark that 12/23/2013 --

24 MS. SHELLEY: Yes.

25 THE COURT: -- e-mail as D for identification.

1 MS. SHELLEY: All right.

2 THE COURT: Do you wish to have it admitted?

3 MS. SHELLEY: That's a two-page e-mail.

4 THE COURT: It's two pages. Are you offering this  
5 into evidence?

6 MS. SHELLEY: Yes.

7 THE COURT: Any objection?

8 MS. GILBERTSON: No.

9 THE COURT: All right. It is admitted and I note it  
10 is two pages long.

11 (Respondent's Exhibit D was marked  
12 for identification by the Court and received in  
13 evidence.)

14 MS. SHELLEY: Next is a letter to Debra Bowen,  
15 Secretary of State, dated January 27th, 2014 --

16 THE COURT: All right.

17 MS. SHELLEY: -- schedule of liability at the bottom,  
18 liability incurred, \$550. This is for a period  
19 January 1st, 2013 through August 3rd, 2013. This is for  
20 the 2013 committee.

21 THE COURT: I will mark that E for identification.  
22 I'm going to assume you want to admit all of these into  
23 evidence; right?

24 MS. SHELLEY: Yes.

25 THE COURT: So I won't keep asking you, but I'll ask

1 you, do you have an objection?

2 MS. GILBERTSON: No.

3 THE COURT: It is admitted.

4 (Respondent's Exhibit E was marked  
5 for identification by the Court and received in  
6 evidence.)

7 MS. SHELLEY: Next is a copy of a check and the back  
8 of the check, cashed for \$550 from Susan Shelley for  
9 Assembly to the Secretary of State --

10 THE COURT: I will --

11 MS. SHELLEY: -- I.D. --

12 THE COURT: Sorry. Go ahead.

13 MS. SHELLEY: Do you want me to read all of it for  
14 the record?

15 THE COURT: What's that?

16 MS. SHELLEY: Do you want me to read the dates for  
17 the record?

18 THE COURT: No. I think you've sufficiently  
19 identified it.

20 MS. SHELLEY: Okay.

21 THE COURT: I'll mark it F for identification.

22 MS. SHELLEY: Okay.

23 THE COURT: Any objection to its admission?

24 MS. GILBERTSON: No.

25 THE COURT: It is admitted.

1           (Respondent's Exhibit F was marked  
2           for identification by the Court and received in  
3           evidence.)

4           MS. SHELLEY: Next is a check from Susan Shelley for  
5           Assembly to the Secretary of State for \$660. This is for  
6           the 2014 committee for the parallel filing.

7           THE COURT: I've marked this check and the back of  
8           check as Exhibit G for identification. Any objection to  
9           its admission?

10          MS. GILBERTSON: No.

11          (Respondent's Exhibit G was marked  
12          for identification by the Court and received in  
13          evidence.)

14          MS. SHELLEY: Next is an e-mail reporting question.  
15          I think this was already in there, wasn't it? I believe  
16          these two are duplicates. 8/19 -- I think the 8/20 is a  
17          different one, "Subject line: Question." That's in  
18          there also. That's Exhibit C. I apologize. That should  
19          not be in there.

20          THE COURT: So the e-mail that is dated 8/19/2013 at  
21          6:44 a.m., is that withdrawn?

22          MS. SHELLEY: No. No. It's not withdrawn. I just  
23          had duplicates in my file. I apologize.

24          THE COURT: I see.

25          MS. SHELLEY: So those two are already in there,

1 reporting question dated 8/19 and question dated 8/20.  
2 Those are Exhibits B and C.

3 THE COURT: No. I just mean these copies, I don't  
4 need; right?

5 MS. SHELLEY: No.

6 THE COURT: Okay.

7 MS. SHELLEY: Next is a letter from the Secretary of  
8 State dated March 21st.

9 THE COURT: All right.

10 MS. SHELLEY: This is for the 2013 committee,  
11 liability incurred, \$1300. It's a two-page letter.

12 THE COURT: Liability incurred, \$1300. Right. I'll  
13 mark that as H for identification. It's a March 21st,  
14 2014 letter from the Secretary of State. It's two pages  
15 long.

16 MS. SHELLEY: Okay.

17 THE COURT: Any objection to its admission into  
18 evidence?

19 MS. GILBERTSON: No.

20 THE COURT: It is admitted.

21 (Respondent's Exhibit H was marked  
22 for identification by the Court and received in  
23 evidence.)

24 MS. SHELLEY: Next is the cover page for a report due  
25 10/10/13. How do I identify this? It's a Form 460, just



1 the cover page, stamped "received and filed February 7th,  
2 PM 2614," preelection statement and a handwritten note on  
3 it that says, "Due 10/10/2013, \$1190."

4 THE COURT: All right. Is the added notation not on  
5 the copy that was submitted as part of Complainant's  
6 record?

7 MS. GILBERTSON: I believe we do have some of this  
8 evidence already in our binders. I believe this is from  
9 Secretary of State and relates to a fine that was paid,  
10 so it may be in the binder. It would take me a moment to  
11 locate it.

12 THE COURT: Well, if there's no objection, I'll just  
13 mark it for identification. We usually try to avoid  
14 duplicate exhibits, but I think in the interest of time  
15 in this case, it may be easier to just admit it if  
16 there's no objection.

17 MS. GILBERTSON: There's none.

18 THE COURT: Okay. I've marked it I for  
19 identification and it is admitted.

20 (Respondent's Exhibit I was marked  
21 for identification by the Court and received in  
22 evidence.)

23 MS. SHELLEY: Thank you.

24 Next is a waiver form, Request for Waiver of  
25 Liability to the Political Reform Division filed

1 April 18th, for the period covered -- this is the 2013  
2 committee for the period covered September 1st, 2013  
3 through October 5th, 2013.

4 THE COURT: Right. I see the form and there's also a  
5 letter --

6 MS. SHELLEY: It's two-sided.

7 THE COURT: There's a letter in response --

8 MS. SHELLEY: Yes.

9 THE COURT: -- and then there's another letter on the  
10 same date. I'm wondering if these should all be jointly  
11 marked as a single exhibit. Are they all part of one  
12 transaction?

13 MS. SHELLEY: Well, no. Actually, they're all  
14 separate. The letters all went out on the same day for  
15 the two committees and the two reports and the --

16 THE COURT: I see.

17 MS. SHELLEY: So it's probably best to mark them  
18 separately.

19 THE COURT: But I'm only seeing one Request for  
20 Waiver.

21 MS. SHELLEY: I think they're in there one at a time.

22 MS. GILBERTSON: It's for the same reporting period,  
23 but one is for the paper filing and the other is for the  
24 electronic.

25 MS. SHELLEY: That's it.

1 THE COURT: All right. I think since they are all  
2 related, I'm going to mark the form, which is the first  
3 two pages, the Request for Waiver of Liability, and then  
4 the two letters from the Secretary of State, both dated  
5 June 26, 2014, as --

6 MS. SHELLEY: One exhibit.

7 THE COURT: -- as one exhibit and mark it Exhibit J  
8 for identification. Any objection to its admission?

9 MS. GILBERTSON: No.

10 THE COURT: It is admitted.

11 (Respondent's Exhibit J was marked  
12 for identification by the Court and received in  
13 evidence.)

14 MS. SHELLEY: Okay. That's J.

15 Next is a copy of a receipt from the Secretary  
16 of State's office showing payment of \$110, the notation  
17 check 1027.

18 THE COURT: All right. This is K for identification.  
19 Any objection to its admission?

20 MS. GILBERTSON: No.

21 (Respondent's Exhibit K was marked  
22 for identification by the Court and received in  
23 evidence.)

24 MS. SHELLEY: Next is a letter from the Secretary of  
25 State dated March 21st, 2014 for the 2013 committee.

1 THE COURT: All right. This is a two-page letter --

2 MS. SHELLEY: Two-page letter, total liability  
3 incurred, \$1820.

4 THE COURT: I'll mark this two-page letter dated  
5 March 21st, 2014 from the Secretary of State as Exhibit L  
6 for identification.

7 Ms. Gilbertson, would I make it faster if I just  
8 went ahead and admitted them unless you told me otherwise  
9 or do you anticipate --

10 MS. GILBERTSON: I think for most of it, that's fine.  
11 I'll -- if you don't mind, I'll speak up.

12 THE COURT: That's fine. I think that might be a  
13 little easier.

14 MS. GILBERTSON: Yeah.

15 THE COURT: So that letter from the Secretary of  
16 State marked L is admitted.

17 (Respondent's Exhibit L was marked  
18 for identification by the Court and received in  
19 evidence.)

20 MS. SHELLEY: Okay. Next is the cover page of the  
21 460 showing handwritten notes of fines totaling \$970.

22 THE COURT: All right. This is Exhibit M for  
23 identification and it is admitted.

24 (Respondent's Exhibit M was marked  
25 for identification by the Court and received in

1 evidence.)

2 MS. SHELLEY: Next is another Request for Waiver of  
3 Liability. This is for the 2013 committee for the period  
4 covered October 6th through December 31st.

5 THE COURT: And is the letter dated June 26, 2014 in  
6 response to this Request for Waiver of Liability?

7 MS. SHELLEY: I believe so.

8 MS. GILBERTSON: And I believe the receipt is also  
9 related.

10 THE COURT: And the receipt is the next page.

11 MS. SHELLEY: Letter showing that the liability's  
12 reduced to \$300 from 850 --

13 THE COURT: All right.

14 MS. SHELLEY: -- and a letter showing --

15 THE COURT: I'll mark that Exhibit N for  
16 identification collectively. The Request for Waiver, the  
17 letter from the Secretary of State, and the receipt for  
18 payment are all collectively Exhibit N and they are  
19 admitted.

20 (Respondent's Exhibit N was marked  
21 for identification by the Court and received in  
22 evidence.)

23 MS. SHELLEY: Thank you.

24 Next is a letter from the Secretary of State's  
25 office dated March 21st, 2014. This is for the 2014

1 committee for the period September 1st through  
2 October 5th, 2013, showing total liability of 1300.

3 THE COURT: All right. That's Exhibit O for  
4 identification and it is admitted.

5 (Respondent's Exhibit O was marked  
6 for identification by the Court and received in  
7 evidence.)

8 MS. SHELLEY: Next is a waiver request for that same  
9 thing, 2014 committee, September 1st through October 5th,  
10 2013.

11 THE COURT: I'm getting to sense a pattern. All  
12 right. The waiver request and the letters in response to  
13 it and the receipt will be marked collectively Exhibit P  
14 for identification and they are admitted.

15 (Respondent's Exhibit P was marked  
16 for identification by the Court and received in  
17 evidence.)

18 MS. SHELLEY: Next is a 460 cover sheet showing \$326  
19 in fines. This is for the 2014 committee for the period  
20 from 10/6/13 through 12/31/13.

21 THE COURT: I'm sorry. I'm looking at a Recipient  
22 Committee Campaign Statement cover page.

23 MS. SHELLEY: Yes. Do you see the handwritten notes  
24 here (indicating)?

25 THE COURT: Oh, I see. Yes. All right. So

1 Exhibit Q will be that campaign statement cover page with  
2 the added handwritten notations.

3 (Respondent's Exhibit Q was marked  
4 for identification by the Court and received in  
5 evidence.)

6 MS. SHELLEY: That's Q? I'm sorry. Was the previous  
7 one R?

8 THE COURT: We're on Q. R is next.

9 MS. SHELLEY: I'm sorry.

10 THE COURT: And it is admitted.

11 MS. SHELLEY: Next is a Request for Waiver of  
12 Liability. This is for the 2014 committee for the period  
13 October 6th through December 31st --

14 THE COURT: All right. So --

15 MS. SHELLEY: -- 2013.

16 THE COURT: -- I will jointly mark the Request for  
17 Waiver, the letter from the Secretary of State addressing  
18 the waiver, the receipt of payment, and the check, a copy  
19 of the check of payment.

20 MS. GILBERTSON: I do believe that's it. I have a  
21 different check.

22 MS. SHELLEY: Yeah. That's a separate -- this  
23 check --

24 MS. GILBERTSON: That was for 110 instead of 100.

25 MS. SHELLEY: No. That's a separate thing. That's a

1 different report. That's a September 5th filing.

2 THE COURT: Okay.

3 MS. SHELLEY: So the waiver form is for the 2014  
4 committee, October 6th, 2013 through December 31st, 2013.

5 THE COURT: And the liability is \$100?

6 MS. SHELLEY: And the liability is \$100 and there's a  
7 receipt from the Secretary of State's office.

8 THE COURT: All right. I will mark all of these  
9 collectively, the waiver form and the receipt, as R for  
10 identification and it is admitted.

11 (Respondent's Exhibit R was marked  
12 for identification by the Court and received in  
13 evidence.)

14 MS. SHELLEY: Thank you.

15 Next we have two checks which you can mark  
16 together if you like. These are both -- these are fines  
17 for late filings that were not charged, but they were  
18 paid \$270 and \$110 for the September 5th, 2013 filing by  
19 each committee.

20 THE COURT: Okay.

21 MS. SHELLEY: So two pages and a total of \$380.

22 THE COURT: I'll mark these Exhibit S for  
23 identification and they are admitted.

24 (Respondent's Exhibit S was marked  
25 for identification by the Court and received in



1 evidence.)

2 MS. SHELLEY: Next is the filing history for the 2013  
3 committee with notations of Form 497 filings in sequence  
4 between the dates of 8/27 and 11/6, this one  
5 (indicating).

6 THE COURT: All five pages all together or --

7 MS. SHELLEY: No. They're two separate committees,  
8 so it's two pages for the 2013 committee.

9 THE COURT: The two pages of filing history will be  
10 marked Exhibit T for identification and they are  
11 admitted. They have the notation of --

12 (Respondent's Exhibit T was marked  
13 for identification by the Court and received in  
14 evidence.)

15 MS. SHELLEY: Next we have two pages of filing  
16 history for the 2014 committee with the red box around  
17 the reports that were done between 4/22/13 and 1/31/14.

18 THE COURT: And how many pages is this again?

19 MS. SHELLEY: Two pages.

20 THE COURT: Two pages? All right. This is marked  
21 Exhibit U for identification, the filing history for the  
22 2014 committee with the red box notation.

23 (Respondent's Exhibit U was marked  
24 for identification by the Court and received in  
25 evidence.)

1 MS. SHELLEY: Would you like a replacement copy of  
2 the list of four 497 filings? Because I see that my  
3 printer cut off the edges of it and I have a replacement  
4 if you'd like.

5 THE COURT: Sure.

6 MS. GILBERTSON: Your Honor, I would object to this  
7 document. This appears to be something that was created  
8 by Ms. Shelley and I have no way of authenticating --  
9 quickly authenticating its contents. I believe it would  
10 be already in the campaign statements.

11 MS. SHELLEY: The next exhibits are the Form 497s  
12 that are listed on this. This is just like a table of  
13 contents for the Form 497s that are next.

14 THE COURT: On that basis, do you still have an  
15 objection?

16 MS. GILBERTSON: Yes, but --

17 THE COURT: Okay. Your objection is noted, but the  
18 documents which I'll mark V, Exhibit V for  
19 identification, are admitted.

20 MS. SHELLEY: That was Exhibit V as in Victor?

21 THE COURT: Correct.

22 (Respondent's Exhibit V was marked  
23 for identification by the Court and received in  
24 evidence.)

25 MS. SHELLEY: Thank you.

1           Next is a Form 497 24-hour Contribution Report  
2 received 10/7/2013 showing a donation of \$8200 from the  
3 Howard Jarvis Taxpayers Association Small Contributor  
4 Committee. This is the 2013 committee.

5           THE COURT: Are these in the Complainant's records?

6           MS. GILBERTSON: They are not and --

7           THE COURT: They are not. So these are the  
8 individual contribution --

9           MS. GILBERTSON: Yes.

10          THE COURT: -- filings?

11          MS. GILBERTSON: And I would note that they have not  
12 been certified records.

13          THE COURT: Right.

14          MS. SHELLEY: They're available on the Secretary of  
15 State's website. That's where these came from.

16          THE COURT: All right. Let's just begin by marking  
17 them. Can they be marked collectively?

18          MS. SHELLEY: Yes.

19          MS. GILBERTSON: Would that be just all the 497s?

20          MS. SHELLEY: These are all the 497s that were filed  
21 electronically between 10/6 and 11/2. Is that the period  
22 of the last preelection report? I think --

23          THE COURT: 10/7 to --

24          MS. SHELLEY: -- 10/6/13 through 11/2/13 was the  
25 period of the preelection report that was not filed and

1 these were all filed during that period.

2 THE COURT: All right. So does this go to public  
3 disclosure?

4 MS. SHELLEY: Yes.

5 THE COURT: I'll mark them as W for identification.  
6 They'll be entered as administrative hearsay --

7 MS. GILBERTSON: Okay.

8 THE COURT: -- subject to direct evidence through  
9 testimony, I presume.

10 (Respondent's Exhibit W was marked  
11 for identification by the Court and received in  
12 evidence.)

13 MS. SHELLEY: Next, three pages together. This is  
14 the cover page and summary for the 460 filing of the 2014  
15 committee and this was for the period 1/1/2013 through  
16 3/31/2013 and it was filed on 4/22/2013.

17 THE COURT: How many pages is this?

18 MS. SHELLEY: This is three pages together. It's the  
19 cover page, the cover page part two showing no additional  
20 committee yet, and the summary page showing the  
21 fundraising through 3/31/13 in 2014 committee.

22 THE COURT: And you have the same thing for the next  
23 reporting period?

24 MS. SHELLEY: Yes. The next reporting one is the  
25 statement period covers 4/1/2013 to 6/30/2013.

1 THE COURT: All right. I'm going to mark these  
2 collectively as Exhibit X.

3 MS. SHELLEY: Collectively both of these reports  
4 together are --

5 THE COURT: Are marked as Exhibit X.

6 MS. SHELLEY: -- or just -- just the one that was  
7 filed on 7/20 -- 7/30?

8 MS. GILBERTSON: I believe it was collectively.

9 MS. SHELLEY: Both of them together?

10 THE COURT: Yes, because they both are intended to  
11 be --

12 MS. SHELLEY: Right.

13 THE COURT: And is there the same objection?

14 MS. GILBERTSON: Yes.

15 THE COURT: So they are admitted as administrative  
16 hearsay.

17 (Respondent's Exhibit X was marked  
18 for identification by the Court and received in  
19 evidence.)

20 MS. SHELLEY: Next is a press release from the  
21 website of the Fair Political Practices Commission dated  
22 February 26th, 2015.

23 MS. GILBERTSON: The Complainant would just object to  
24 this on the basis of relevance.

25 THE COURT: What's the purpose of introducing this?

1 MS. SHELLEY: The purpose of introducing it is the  
2 FPPC launched an online tool kit for new candidates in  
3 which in this press release they acknowledge that this is  
4 an effort to streamline the process to promote public  
5 involvement and improve compliance.

6 "Every year, candidates without  
7 extensive campaign experience or a  
8 specialized attorney look to the FPPC for  
9 guidance. The online tool kit provides  
10 easy-to-understand information, including  
11 links to the required disclosure forms,  
12 filing deadlines, regulations, and  
13 frequently asked questions," and this is  
14 February 26, 2015.

15 THE COURT: So your point is? This is after though.

16 MS. SHELLEY: This is after my campaign. This is  
17 the -- this addresses directly the problem that I had and  
18 this was launched as part of the FPPC recognizing that  
19 there was a problem for new candidates without lawyers  
20 and there were quotations in it from the Executive  
21 Director of the League of California Cities saying:

22 "The new FPPC online tool kit will be a  
23 great resource for citizens who want to run  
24 for local office. Having election  
25 information and requirements in one place

1 will make the process of running for office  
2 more easily accessible for people who want  
3 to serve their communities in an elected  
4 capacity."

5 THE COURT: I've marked this press release from the  
6 Fair Political Practices Commission dated February 26,  
7 2015 as Y for identification. The relevancy objection is  
8 overruled and it is admitted.

9 (Respondent's Exhibit Y was marked  
10 for identification by the Court and received in  
11 evidence.)

12 MS. SHELLEY: Next is the special election calendar  
13 from 6/30/13 through 9/27/13 and relevancy is that none  
14 of the filing deadlines for these very important reports  
15 are on it, although many other deadlines for the  
16 candidates related to getting on the ballot, challenging  
17 different things, nomination papers, political party  
18 endorsements, notice, certified lists, there are no -- on  
19 the calendar which was available from the Secretary of  
20 State and the Los Angeles County Registrar's Office,  
21 there were no notations at all about important filing  
22 deadlines for campaign finance.

23 THE COURT: All right. I've marked this Z for  
24 identification. Any objection?

25 MS. GILBERTSON: No. This was submitted as part of

1 our official notice.

2 THE COURT: All right. It's part of your official  
3 notice, so --

4 MS. GILBERTSON: So no objection.

5 THE COURT: So maybe withdraw it since it's  
6 entirely -- it's duplicative and there'll be no --  
7 there's no notations or anything like that on it. You  
8 can make your point through Complainant's exhibits as  
9 well as your own. We just try to avoid if it's exactly  
10 the same.

11 MS. SHELLEY: Okay.

12 THE COURT: So I'll mark it as Z for identification  
13 but -- well, if you don't want to withdraw it, I'll just  
14 exclude it as duplicative.

15 (Respondent's Exhibit Z was marked  
16 for identification by the Court.)

17 MS. SHELLEY: Okay. I have duplicates here also for  
18 which I apologize.

19 Have we already marked the Friday, December 19th  
20 e-mail request for advice, the FPPC's technical advice?  
21 "Technical Assistance Division is responding to your  
22 question"? My December 19th e-mail? Nope --

23 MS. GILBERTSON: I'm sorry. What was the date?  
24 August?

25 MS. SHELLEY: This is -- I have four different ones



1 here. I think these are all different. I think these  
2 were all different questions.

3 MS. GILBERTSON: I believe --

4 MS. SHELLEY: Okay. August 19th, we did that one  
5 already, so that's a duplicate. I apologize.

6 Did we do Friday, December 20th, the response on  
7 September --

8 THE COURT: Well, the next one I have is August 20th,  
9 2013, at 12:40 p.m. Is this also a duplicate?

10 MS. SHELLEY: Yes. I think we did this one already.

11 MS. GILBERTSON: I believe these are already in  
12 Complainant's exhibits. I believe they're Exhibit 18 and  
13 I do believe that all three e-mails were already  
14 submitted.

15 MS. SHELLEY: Do you have -- I think the two from  
16 December are new.

17 MS. GILBERTSON: So December 20th, 2013.

18 MS. SHELLEY: And December 19th, 2014.

19 MS. GILBERTSON: December -- I have -- so this is  
20 what I have. I have this December 20th, 2013.

21 MS. SHELLEY: This is December 19th, so the --

22 MS. GILBERTSON: December 19th response -- no, I  
23 don't have the 19th. So that one is new.

24 THE COURT: Just a moment. Let me catch up with you  
25 because I don't have a December 20th. I have a

1 December 23rd.

2 MS. SHELLEY: I have a December 23rd.

3 THE COURT: December 11th and December 19th. Oh, I  
4 see -- no. It's all December 19th.

5 MS. SHELLEY: You have December 19th and you have  
6 December 23rd?

7 THE COURT: Yes. I don't have December 20th.

8 MS. SHELLEY: Well, you know what? The December 20th  
9 is the bottom part of the December 23rd. My e-mail to  
10 them was December 20th. So the top date is December 19th  
11 and December 23rd. I'd like to enter both of these.

12 THE COURT: Just the December ones?

13 MS. SHELLEY: The August 20th I think we already did  
14 and the September 11th maybe we didn't do, so let's do  
15 that one. Do you have that?

16 MS. GILBERTSON: September 11th? No. The --

17 MS. SHELLEY: See below.

18 MS. GILBERTSON: No. We don't have the 2014 ones.

19 MS. SHELLEY: Okay. I'm sure I have another copy for  
20 you. Judge Ghaly, do you have them? Do you have  
21 September 11th?

22 THE COURT: I have one from 2014, September 11th.

23 MS. SHELLEY: And then you have the December 23rd,  
24 2013 and December 19th, 2014?

25 THE COURT: Yes, I have that.

1 MS. SHELLEY: Okay. So let me get a copy for --

2 MS. GILBERTSON: I have it. I was referring to the  
3 other binder.

4 MS. SHELLEY: Okay.

5 THE COURT: All right. So I'm going to mark these  
6 collectively as AA for identification, and let's just be  
7 clear. This is December --

8 MS. SHELLEY: There's a December 24th -- I mean a  
9 December 2014 and there's a December 2013, and then  
10 there's a September 11th, 2014.

11 THE COURT: All right. So these three are  
12 collectively marked Exhibit AA for identification and  
13 they are admitted.

14 (Respondent's Exhibit AA was marked  
15 for identification by the Court and received in  
16 evidence.)

17 MS. SHELLEY: Next we have an amended statement,  
18 cover sheet of an amended statement. This is filed on  
19 10/27/13 and it shows a circle around "adding in-kind  
20 contribution information," received on 10/26/13.

21 THE COURT: All right. Is this a three-page  
22 document?

23 MS. SHELLEY: No. This is a one-page document and  
24 then the other one is the 20- --

25 MS. GILBERTSON: 2013.

1 MS. SHELLEY: -- 2013 committee. And I wanted to  
2 call to your attention this \$266.06 charge, which was an  
3 attempt by me to comply with the law that said you had to  
4 spend the money on the 2013 committee, on the 2013  
5 campaign from the 2013 committee. What happened here was  
6 the 2014 --

7 THE COURT: Hold on. Hold on. Hold on. This is the  
8 kind of thing we want to get under oath.

9 MS. SHELLEY: Under oath. Well, in any case, it  
10 shows -- this is pages showing a \$266 transfer.

11 THE COURT: All right. So taking them in order, the  
12 Recipient Committee Campaign Statement dated -- well,  
13 it's for the period from 9/1/2013 to 10/5/2013 --

14 MS. SHELLEY: Right.

15 THE COURT: -- is marked Exhibit BB --

16 MS. SHELLEY: Okay.

17 THE COURT: -- and admitted.

18 (Respondent's Exhibit BB was marked  
19 for identification by the Court and received in  
20 evidence.)

21 MS. SHELLEY: Did that include -- did you combine  
22 those two?

23 THE COURT: No, I didn't. The Schedule E -- well,  
24 it's for the same reporting period? No.

25 MS. GILBERTSON: It's a different committee.

1 THE COURT: It's a different committee? All right.  
2 So Schedule E, is that two pages long?

3 MS. SHELLEY: That's two pages. It's got a footnote.

4 THE COURT: It's got a footnote.

5 MS. SHELLEY: The footnote's on the second page  
6 circled in red.

7 THE COURT: I see. I see it. Okay. So that's CC  
8 and it is admitted.

9 (Respondent's Exhibit CC was marked  
10 for identification by the Court and received in  
11 evidence.)

12 MS. SHELLEY: I think this filing history is a  
13 duplicate.

14 This is a copy of Regulation 1A.361.4 for  
15 probable cause proceedings.

16 THE COURT: All right. The filing history --

17 MS. SHELLEY: I think that's a duplicate.

18 THE COURT: It is a duplicate. So is it withdrawn?

19 MS. SHELLEY: Yeah.

20 THE COURT: All right.

21 MS. GILBERTSON: Your Honor, the regulation was also  
22 officially noticed. Yeah.

23 THE COURT: Yeah. So is that withdrawn?

24 MS. SHELLEY: So you don't -- well, if it's  
25 officially noticed, it doesn't have to be introduced?

1 Forgive me for not knowing this.

2 THE COURT: It's not evidence. It's the law.

3 MS. SHELLEY: Well, I wanted to call attention to the  
4 portion of the regulation that says:

5 "Probable cause shall not be found  
6 because of the staff's failure to provide  
7 advice."

8 It was the portion that I wanted to call  
9 attention to.

10 THE COURT: That should be part of your factual  
11 presentation and your closing argument --

12 MS. SHELLEY: Okay.

13 THE COURT: -- but it's withdrawn for now.

14 So we've gone through Exhibit CC. Is that the  
15 same as your records?

16 MS. GILBERTSON: Yes.

17 MS. SHELLEY: Okay. Earlier -- I have a few more.

18 Earlier today, I gave you a file that had in it  
19 the FPPC Enforcement Manual downloaded from its website,  
20 which I'd like to have admitted or perhaps I could ask  
21 you to take judicial notice of it.

22 THE COURT: We can take official notice. Is there an  
23 objection to that?

24 MS. GILBERTSON: No.

25 THE COURT: All right.

1 MS. SHELLEY: Also, the letter, public comments,  
2 outlining comments from the California Political  
3 Attorneys Association dated June 8th, 2018.

4 THE COURT: I'm sorry. Wait a minute. Is this  
5 attached to the --

6 MS. SHELLEY: This was in that folder that I gave you  
7 earlier.

8 THE COURT: No, I'm with you, but let's see. I have  
9 minutes of a hearing.

10 MS. SHELLEY: A transcript of hearing, I'd like to  
11 also introduce that.

12 THE COURT: All right. But you first want to put in  
13 the Enforcement Guidebook. Oh, it's here.

14 MS. SHELLEY: It's the Enforcement Manual.

15 THE COURT: Enforcement Manual.

16 MS. SHELLEY: Dated 2018.

17 THE COURT: We will call that Exhibit DD and there's  
18 no objection, so it is admitted.

19 And then what was your next exhibit?

20 (Respondent's Exhibit DD was marked  
21 for identification by the Court and received  
22 in evidence.)

23 MS. SHELLEY: Next is the transcript from the  
24 California Fair Political Practices Commission hearing,  
25 public session, Thursday, September 21st, 2017.

1 THE COURT: That's Exhibit EE.

2 I'm sorry. The Guidebook I'm taking official  
3 notice of. It's not admitted, but I will review it in  
4 the course of making my decision.

5 The minutes -- are you introducing that as --  
6 for official notice or --

7 MS. SHELLEY: Yes. It's a transcript. It's not  
8 minutes. It's a transcript. So yes, I would appreciate  
9 you taking judicial notice of that.

10 THE COURT: Any objection?

11 MS. GILBERTSON: Again, I would just question the  
12 relevancy.

13 THE COURT: Ms. Shelley?

14 MS. SHELLEY: The relevancy is that the Commission  
15 has expressed concern about the chilling effect of  
16 excessive fines. This is Commissioner Audero on page 12  
17 saying:

18 "And I understand that there are  
19 resources, et cetera, but I think that we  
20 have to try to ensure that our fines aren't  
21 such that they chill the running for  
22 office."

23 And there's more with that.

24 And then there's a second highlighted area on  
25 page 11. I mean, this is from Galina West. She's



1 speaking about a group that didn't reach out to anyone  
2 for advice and she says:

3 "We're offering classes. I mean, our  
4 Education Division goes all over the state  
5 and so while we take into consideration" --  
6 and in this case, we definitely did -- "we  
7 also take into consideration you have to  
8 make a little effort to follow the rules as  
9 well."

10 And that's the head of Enforcement for the FPPC  
11 talking about the education of candidates as something  
12 where they go around the state and say, We're offering  
13 classes in your area. And the relevancy is that I would  
14 argue that that is not the same as sending candidates an  
15 e-mail with the filing schedule link. It's not timely.  
16 It's not notification. And I have --

17 THE COURT: Hold on a second.

18 So the objection regarding the relevancy of the  
19 minutes from the FPPC meeting is overruled and EE is -- I  
20 will take official notice of it.

21 (Respondent's Exhibit EE was marked  
22 for identification by the Court.)

23 MS. SHELLEY: Thank you.

24 I have a letter from myself to Chris Reynolds  
25 dated October 29th, 2015 with attachments and the

1 relevance of this is that in 2015, I was still trying to  
2 comply with everything. They sent me a letter saying  
3 that I had not paid the \$50 committee fee which I had  
4 paid and I wrote back and said that I sent copies of the  
5 check and the back of a check and I asked in this letter,  
6 because he had said that he would refer it -- if it  
7 wasn't paid, it would be referred to the FPPC for  
8 enforcement. I wrote:

9 "I would appreciate your  
10 acknowledgement in writing that the  
11 committee does not currently owe any fees or  
12 fines to the Secretary of State and will not  
13 be referred to the Fair Political Practices  
14 Commission for enforcement action and  
15 additional penalties."

16 I was trying to comply with everything. "I  
17 believe everything is in order for this committee" is  
18 what I wrote to him and I wanted an acknowledgment  
19 because this was the fall of 2015 and they were still  
20 sending me letters and this was something that was paid.

21 THE COURT: This is the Secretary of State, not the  
22 FPPC?

23 MS. SHELLEY: Yes. Chris Reynolds, chief, Political  
24 Reform Division, Office of the Secretary of State.

25 THE COURT: Any objection?

1 MS. GILBERTSON: No.

2 THE COURT: All right. The October 29, 2015 letter  
3 from the Respondent and its attachments marked FF for  
4 identification is admitted.

5 (Respondent's Exhibit FF was marked  
6 for identification by the Court and received in  
7 evidence.)

8 MS. SHELLEY: Okay. I gave you the credit card  
9 records and bank statement records for the period of the  
10 missed 460 preelection report to show the number of small  
11 contributions that would not have been attributed to the  
12 specific donor information in the report and the total is  
13 I believe \$2355. I can check that in my brief, but it  
14 was a little more than \$2,000. No donor information for  
15 those contributions would have been in the report anyway.  
16 It would have been reported as a lump sum.

17 THE COURT: I follow -- I really am losing you on the  
18 relevance here. You're saying that this is sort of "no  
19 harm, no foul" kind of thing?

20 MS. SHELLEY: No. I'm saying that their argument  
21 that there was no disclosure of any sort during the  
22 period of a missed 460 is false because there were 497s  
23 totaling \$28,500 and there was more than \$2,000 of  
24 contributions that would have been reported as a lump sum  
25 and that's the documentation for it.

1 THE COURT: Okay. I'm not sure that that's what's  
2 being argued, but -- yeah. Is there a response?

3 MS. GILBERTSON: I would object to this information.  
4 The -- if she's speaking to information that -- where  
5 individuals did not need to be disclosed and money -- a  
6 dollar amount was disclosed, this information would be  
7 captured in the campaign statements which have already  
8 been submitted as evidence. I don't see the relevancy of  
9 either the individuals or a bank summation.

10 MS. SHELLEY: Well, the relevancy is that it shows  
11 what wasn't reported because they're all small  
12 contributions for the most part. The large contributions  
13 were reported on the 497s. There were some \$25 and \$100  
14 contributions, just a small number, that were not  
15 captured on the preelection report that was missed. So  
16 the FPPC's assertion that there was no disclosure of any  
17 kind during that missed preelection period before the  
18 general election is false.

19 THE COURT: And this is a bank statement?

20 MS. SHELLEY: Those are -- that's a computer printout  
21 of the U.S. Bank statement showing the individual  
22 contribution -- the individual deposits which were  
23 deposited electronically one check at a time.

24 THE COURT: All right.

25 MS. SHELLEY: Credit cards.

1 THE COURT: I'll admit it as administrative hearsay.  
2 I'm not sure what weight it will be given.

3 (Respondent's Exhibit GG was marked  
4 for identification by the Court and received in  
5 evidence.)

6 MS. SHELLEY: Last night I wanted to print the most  
7 recent campaign statement for the 2014 committee which is  
8 still open because it has debt and I wanted to show that  
9 the reason this committee still has \$27,000 in debt as  
10 evidence of good faith, as a candidate, is that I raised  
11 about \$125,000 for the 2014 committee when I did run it  
12 again, because the 2013 race was quite close and I did  
13 run again, but I did not raise money to pay back the  
14 debt.

15 The debt is in the 2014 committee, although  
16 these were loans for the 2013 campaign, and I want you to  
17 see that the debt was not repaid. \$3,000 was repaid with  
18 a refund of something that came back at the end of the  
19 campaign and the rest is still there.

20 THE COURT: Yeah. I don't understand the relevance  
21 to the issue in the Accusation, the issues in the  
22 Accusation.

23 MS. SHELLEY: It goes to good faith of the candidate,  
24 good faith of the candidate with the donors, good faith  
25 of the candidate with the Commission, transparency with

1 everyone. I could not -- I would not have been allowed  
2 to raise money without telling people I was raising it to  
3 reduce debt.

4 THE COURT: All right. So this is by way of  
5 mitigation? Is that -- all right. Is there an  
6 objection?

7 MS. GILBERTSON: I would also object to the  
8 relevancy.

9 THE COURT: All right. I will overrule the  
10 objection. I will accept it for limited purpose of  
11 mitigation.

12 MS. SHELLEY: Thank you, your Honor.

13 THE COURT: I'm going to mark these statements as HH  
14 for identification and they are admitted, admitted as  
15 administrative hearsay.

16 (Respondent's Exhibit HH was marked  
17 for identification by the Court and received in  
18 evidence.)

19 MS. SHELLEY: And finally -- I think this is  
20 everything. Finally, this is an error message from the  
21 Cal-Access system last night when I tried to print this  
22 report at midnight. I had this server error which is  
23 characteristic of my experience with Cal-Access that it  
24 crashes and gives you errors and says, Don't use your  
25 back button and it goes to the difficulty of compliance

1 with that system. It's dated 6/19 because it was after  
2 midnight.

3 THE COURT: Any objection?

4 MS. GILBERTSON: Yes, your Honor. I'd object. I  
5 don't know what value an error statement from June 19th,  
6 2019 has or could speak to any alleged errors she would  
7 have back in 2013.

8 MS. SHELLEY: Well, the relevance is that there are  
9 plans in the works to replace the Cal-Access system and  
10 this is evidence of the sort of problem that they are  
11 addressing when candidates are trying to enter data and  
12 the thing is crashing and you're having to log out and  
13 log in, try again, and it's extremely difficult to work  
14 with and they are fixing that now, but that didn't help  
15 me in 2013.

16 THE COURT: All right. I'll mark this printout of a  
17 server error as II. I'll admit it as administrative  
18 hearsay.

19 (Respondent's Exhibit II was marked  
20 for identification by the Court and received in  
21 evidence.)

22 MS. SHELLEY: Thank you, your Honor. And I believe  
23 that's all I have.

24 THE COURT: I have a few other things in this folder.  
25 There's checks --

1 MS. SHELLEY: Oh, I forgot about the checks. I don't  
2 have extra copies. Those are checks that match the  
3 receipts from the Secretary of State's office, submitted  
4 to show that it was the campaign committee that paid  
5 those receipts, because I'm not sure it was clear on the  
6 receipt who paid it, but those checks matched the waiver  
7 request receipts.

8 THE COURT: I'll mark this copy of checks as JJ. Is  
9 there an objection?

10 MS. GILBERTSON: No.

11 THE COURT: They are admitted or it is admitted.

12 I also have --

13 (Respondent's Exhibit JJ was marked  
14 for identification by the Court and received in  
15 evidence.)

16 MS. SHELLEY: Oh, the termination statement.

17 THE COURT: Well, I have credit card donations.

18 MS. SHELLEY: That goes with the bank records.

19 THE COURT: All right. Do you recall what exhibit  
20 that is?

21 MS. GILBERTSON: I believe it was GG.

22 MS. SHELLEY: The campaign accepted donations online  
23 through a company called PRX and that's their printout of  
24 all the donations that came in by credit card.

25 THE COURT: I'm going to include them with



1 Exhibit GG. Any objection?

2 MS. GILBERTSON: I just have the same objection that  
3 we had for the rolling bank statement.

4 THE COURT: All right. So it'll be admitted along  
5 with the rest of the records as administrative hearsay.

6 MS. SHELLEY: And finally, I have the termination  
7 statement for the 2013 campaign which was filed on  
8 12/29/2014.

9 THE COURT: I actually don't have that. I have the  
10 FPPC Task Force on Enforcement Priorities and Procedures  
11 Outline dated June 8, 2018.

12 MS. SHELLEY: Oh, that's the Political Attorneys  
13 Association. I think we marked that earlier.

14 THE COURT: Oh, sorry. I thought it was FPPC. CPAA?

15 MS. SHELLEY: And that's the termination statement  
16 for the 2013 committee.

17 THE COURT: And what's the relevance of the  
18 termination statement?

19 MS. SHELLEY: To show that I had two committee  
20 reporting obligations all through the 2014, although  
21 there was no money in the account.

22 THE COURT: I see. Any objection?

23 MS. GILBERTSON: No.

24 THE COURT: All right. The termination statement  
25 will be marked Exhibit KK and it is admitted.

1 (Respondent's Exhibit KK was marked  
2 for identification by the Court and received in  
3 evidence.)

4 MS. SHELLEY: Thank you, your Honor.

5 THE COURT: The CPA Task Force on Enforcement  
6 Priorities and Procedures Outline, is this something you  
7 would like what? I take official notice of it?

8 MS. SHELLEY: Yes, please. It's in support of the  
9 changes that are coming and the FPPC addressing problems  
10 with the Enforcement Division and their use of discretion  
11 and recommendations from the Political Attorneys  
12 Association as public comments as part of the enforcement  
13 review process that is currently under way.

14 THE COURT: Any objection?

15 MS. GILBERTSON: I would make the same relevancy  
16 objection that I've previously made.

17 THE COURT: All right. I'll overrule the objection.  
18 I'll take it as administrative hearsay.

19 MS. SHELLEY: Thank you very much.

20 THE COURT: I'm sorry. You asked for official  
21 notice. I don't know if I can take official notice of  
22 that.

23 MS. SHELLEY: Similar to the transcript of the FPPC  
24 commissioners, this is an ongoing conversation they're  
25 having about appropriate penalties for violations that

1 are made in good-faith campaigns.

2 THE COURT: All right. I'll admit it as  
3 administrative hearsay.

4 MS. SHELLEY: Thank you.

5 THE REPORTER: Was that KK?

6 THE COURT: It's LL and it is admitted. It's the  
7 June 8, 2018 outline and comments, California Political  
8 Attorneys Association.

9 (Respondent's Exhibit LL was marked  
10 for identification by the Court and received in  
11 evidence.)

12 THE COURT: Is that it?

13 MS. SHELLEY: That's it for documents.

14 THE COURT: Are you sure?

15 All right. Do you have any witnesses?

16 MS. SHELLEY: I do. May I make a brief opening  
17 statement?

18 THE COURT: Yes, you may, of course.

19 MS. SHELLEY: I would just like to explain that in  
20 addition to being the candidate and treasurer in this  
21 campaign, I was the campaign manager, I was the media  
22 buyer, I was the data analyst, I was the communications  
23 director, I was the driver, I was the deliverer of  
24 printed materials, it was an extremely busy campaign, and  
25 it was very, very fast. It was called in -- July 2nd, I

1 believe --

2 THE COURT: This sounds an awful lot like testimony.  
3 I'm sorry to do this to you, Ms. Shelley -- or a really  
4 good closing.

5 MS. SHELLEY: I apologize for not watching enough  
6 Perry Mason. Should we just move to the witness?

7 THE COURT: That's my recommendation, but you are  
8 free to do what you want. It's just that you will  
9 literally have to --

10 MS. SHELLEY: The evidence will show -- is that  
11 appropriate?

12 THE COURT: Yes. There you go.

13 MS. SHELLEY: The evidence will show that I made  
14 every effort to find out what the requirements were of a  
15 candidacy, that I searched the L.A. County Registrar's  
16 website and I searched the Secretary of State's website  
17 and I wrote to the FPPC and I expressed my willingness to  
18 comply with everything and I worked very hard. And you  
19 can see in these three binders how much filing there was  
20 and I'd like to point out that all of the reports that  
21 were late were within a 90-day period between August 8th  
22 and November 7th. They were all in a 90-day period.

23 It may look at first glance as if the 2013  
24 committee and the 2014 committee, because I did end up  
25 running twice, were having this pattern of violations.

1 This was all in 90 days and I was not alerted to anything  
2 amiss until the Secretary of State's office sent letters  
3 beginning in January, in late January. I paid the fines  
4 as fast as I could. I tried to make it right. I tried  
5 to -- I wrote e-mails.

6 The evidence will show I wrote e-mails to ask if  
7 anything was missing, to ask if anything needed to be  
8 corrected or amended or added. Those requests were  
9 ignored and I did everything I could do to get everything  
10 filed correctly and to be fully transparent and disclose  
11 everything I could. Everything I knew to file, I filed.

12 I was a first-time candidate and the evidence  
13 will show that I did not have experience in campaign  
14 finance or state races. The evidence will show that this  
15 is an extraordinarily complicated process that is not  
16 successfully navigated by amateurs.

17 The evidence will show that the FPPC later  
18 became aware and tried to correct some of the problems.  
19 I was one of the candidates that had those problems. The  
20 evidence will show that every possible effort to comply  
21 with the law was made and yet I was charged with  
22 violating the law and this was a losing campaign.

23 There is -- the evidence will show there is no  
24 public harm. The evidence will show that the 2014  
25 campaign was essentially free of problems because once I

1 knew the dates, the evidence will show the filings were  
2 done on time and there was substantial compliance, by the  
3 FPPC's own admission, that there was a good-faith effort  
4 to familiarize with the rules. There was no history of  
5 enforcement action. I consulted with the Commission  
6 staff.

7           The evidence will show that the Enforcement  
8 Division confirmed the FTB's audit findings showing that  
9 myself and the committee substantially complied with the  
10 Act's campaign reporting requirements during the audit  
11 period, which was the 2013 campaign as well as the  
12 campaign statements for reporting periods between  
13 January 1st, 2014 and June 30th, 2015.

14           And with that, I'd like to call my first  
15 witness.

16           THE COURT: Thank you. Go ahead. Who would you like  
17 to call?

18           MS. SHELLEY: I'd like to call Amber Maltbie.

19           THE COURT: Ms. Maltbie, would you please come up  
20 here to the stand and please raise your right hand.

21  
22                                            AMBER ROSE MALTBIE,  
23 called as a Witness, and having been first duly sworn by  
24 the Court, was examined and testified as follows:

25           THE WITNESS: I do.

1 THE COURT: Thank you. Have a seat. Please state  
2 and spell your full legal name for the record.

3 THE WITNESS: Amber Rose Maltbie, A-m-b-e-r R-o-s-e  
4 M-a-l-t-b-i-e.

5 THE COURT: Your witness.

6 MS. GILBERTSON: Did you want us to move these out of  
7 your way?

8 THE WITNESS: If you wouldn't mind.

9

10 DIRECT EXAMINATION

11 BY MS. SHELLEY:

12 Q Ms. Maltbie, what is your current job and title?

13 A I am currently a partner at the law firm  
14 Nossaman LLP. I also -- part-time, I'm an adjunct  
15 professor at the University of the Pacific McGeorge  
16 School of Law where I teach election law.

17 Q And how long have you been in practice?

18 A Ten years.

19 Q And have you ever been approved by a court in  
20 California as an expert witness on campaign finance?

21 A Yes, I have, in L.A. Superior Court before  
22 Judge Mackey.

23 Q Have you ever represented candidates for  
24 elective office?

25 A Yes. Over the course of the last ten years, I

1 have practiced almost exclusively in campaign finance and  
2 election law, so I've represented candidates at the state  
3 and local level in California, federal candidates as  
4 well.

5 I also have been on the board of a nonprofit  
6 called Emerge California for the last six years, and  
7 Emerge California is actually focused just on training  
8 and electing women to political office. So as a board  
9 member, I do their campaign finance trainings for the  
10 program members every year.

11 So between representing candidates and training  
12 candidates in my board position, I've worked with well  
13 over a hundred candidates in California.

14 Q And what advice do you give them about campaign  
15 finance?

16 A Overwhelmingly, when I'm working -- well, let me  
17 back up a little bit.

18 Through Emerge California, all of that of course  
19 is I'm not providing legal advice. I'm providing  
20 campaign finance training which they can take or leave;  
21 but, you know, I always say that when you're starting a  
22 campaign, if you're a first-time candidate, you  
23 absolutely should hire a professional treasurer.

24 The reason why we are particularly adamant about  
25 that at Emerge California is that we find first-time



1 candidates either don't do that because the smaller the  
2 campaign, the lower the budget, the less likely they're  
3 going to want to spend money on that, and they mistakenly  
4 think that a CPA or an accountant will be a sufficient  
5 replacement, particularly if they're willing to  
6 volunteer.

7           And conversely, I know a number of political  
8 treasurers who their job is professional political  
9 reporting, but they're not attorneys and so they will as  
10 a policy not work with a candidate unless they have a  
11 political attorney because of the liability on the  
12 treasurer imposed on the Political Reform Act, and my  
13 view is a -- I mean, this is the Political Reform Act  
14 (indicating). It's almost 200 pages long.

15           It's -- I always warn clients, because my firm  
16 does not do political reporting, you should have a  
17 professional treasurer and through the Emerge California  
18 program, go get professional compliance help. It is a  
19 field of land mines if you're not prepared.

20           Q   Field of land mines. Is it -- is it difficult  
21 for candidates to access information on what the law is?

22           A   Well, it depends on, I mean, again, what your  
23 knowledge level is. You know, you have to know where to  
24 go to look.

25           The Fair Political Practices Commission has in

1 the last few years created a first-time candidate tool  
2 kit. This is something that actually I've promoted  
3 within the Emerge California network because I think it's  
4 a helpful tool for candidates to have something like  
5 that, but I think the tricky part is interpreting -- if  
6 you're looking, you know, at the statute, no. You  
7 certainly wouldn't know where to begin if you're not a  
8 professional political attorney.

9 Q Okay. In your experience, how does the public  
10 access information about campaign spending in elections?

11 A So if we're talking about state races, Assembly,  
12 Senate, constitutional office, then the public -- if  
13 they -- the people who would be interested in looking at  
14 that, usually the media, your opponents, some people in  
15 the public, know to look at campaign finance reports; but  
16 the starting point would be to go on to the online system  
17 called Cal-Access, which is hosted by the California  
18 Secretary of State and where candidates who raise over  
19 25,000 are required to file online. And for state-level  
20 candidates, overwhelmingly most reach that threshold.

21 Q In your opinion, does the public request paper  
22 copies of campaign finance reports from the Secretary of  
23 State instead of using Cal-Access?

24 A If we are talking about a state candidate,  
25 again, no. The only -- the only time that I have ever

1 endeavored to contact the Secretary of State is when my  
2 client looked online and saw their opponent had filed  
3 absolutely zero reports. And so in that case, the  
4 question was, Well, either they completely didn't file,  
5 they missed something, or they didn't reach the \$25,000  
6 threshold. So the only point of asking for the paper  
7 copy was to confirm whether or not they had indeed missed  
8 a filing or if they just had not qualified.

9 Q Do you have an opinion as to whether the public  
10 would have had information about the Shelley for 2013 and  
11 2014's campaign finance activity prior to the 2013  
12 special election primary and the special general  
13 election?

14 A I do.

15 Q And what documents or other material did you  
16 look at to form that opinion?

17 A So I reviewed the documents that were provided  
18 to me by you, which included a probable cause report, an  
19 Accusation, your response. I looked at other documents  
20 provided by you, including the Secretary of State  
21 penalties, the checks. I also -- I independently  
22 verified the Form 497 reports that you filed, the late  
23 contribution reports during the second preelection  
24 report, during the period in which no 462 was actually  
25 filed. So I went on to the Secretary of State. I

1 cross-checked what was in your chart with what is  
2 available online.

3 Q Did you notice when you were looking at the  
4 Secretary of State's website the time of day that some of  
5 the campaign finance reports were filed?

6 A Yes. I noticed many of them were either  
7 after -- well, between the hours of 12:30 in the morning  
8 and 4:30 or 5:00 in the morning.

9 Q And what about the documents made you reach your  
10 conclusion that the public would have had the information  
11 they needed?

12 A So looking at -- just one moment.

13 So going by counts, so there are five counts in  
14 the Accusation. Three relate to the 2013 committee and  
15 two relate to the 2014 committee. All of the violations  
16 occurred, though, within the special primary and special  
17 general elections.

18 If you look at the first count for the 2013  
19 committee, the report was filed electronically 11 days  
20 late; however, the election was September 17th. The  
21 statement was filed, the actual date, August 19th. So  
22 that means that the public had that information available  
23 for them online for 29 days before the relevant election.

24 If you look at Count 2, the -- that was the  
25 second preelection report. It was due on October 10th.

1 It was filed online October 21st. The election was  
2 November 19th. So that report also was available online  
3 to the public -- and I'm sorry. That was for the  
4 general, not -- the first for the preelection for the  
5 general. That was online for 29 days before the  
6 election.

7 So for both of those periods, the public had a  
8 full almost month of disclosure available if they  
9 endeavored to look.

10 And then finally, during the period during which  
11 no second preelection report was filed for the special  
12 general election, during that time period, which was  
13 October 6th to 11/2, the contributions received by the  
14 committee, the 2013 committee again, 36,580. \$28,500 in  
15 contributions were reported on the Secretary of State's  
16 website through Form 497.

17 They were timely filed. Those were not required  
18 to be paper filed and that constitutes by my math about  
19 78 percent of contributions during that period that no  
20 462 was filed or disclosed and available to the public.

21 Turning to the 2014 committee, Count 2 relates  
22 to the -- I guess would have been the first preelection  
23 report for the special general election. Here, the 2014  
24 committee -- I mean, there was no 2014 election. At that  
25 point, far, far off, but during that period, the total

1 contributions were \$330. For the second period, it was  
2 less than \$300. So in total, in terms of contributions  
3 received, just over -- well, I was not a math major --  
4 about \$600 in activity in that committee and that I don't  
5 think would have been relevant to a public informing  
6 themselves about how you're spending money in the 2013  
7 committee.

8 Q What's your opinion of the complexity of the  
9 reporting in this particular race with a 90-day window  
10 for two preelection reports in two committees in two  
11 formats for two elections?

12 A I mean, I think that this was a scenario where a  
13 professional political treasurer probably would have  
14 taken pause taking this on as a client. This would have  
15 been a scenario where, you know, a treasurer would be  
16 like, You probably have to have an attorney on board as  
17 well because of the complexity level.

18 Q So what would be the chances that a first-time  
19 state candidate acting as her own treasurer would get it  
20 100 percent right?

21 A Yeah. I mean, I can't -- I can't speak in  
22 percentage, but going back to what I said earlier about  
23 why we always say get a treasurer, get a treasurer, get a  
24 treasurer, it's because we at -- again, through Emerge  
25 California, this is not my legal advice, but my training

1 of first-time. We deal with first-time candidates and so  
2 we see first-time candidates make mistakes all the time,  
3 so that's why we've really tried to create a culture of  
4 get the professional help that you need and because of  
5 the complexity, it warrants going above and beyond doing  
6 it yourself or having a volunteer.

7 Q Are you aware of any measures by the FPPC or any  
8 other state agency to facilitate timely filing of  
9 campaign finance reports by candidates?

10 A I am. There are a -- a variety of things  
11 happening legislatively and with both the Fair Political  
12 Practices Commission and the Secretary of State's office.  
13 I think one thing particularly relevant is that  
14 legislation passed last year directing the Secretary of  
15 State to update Cal-Access. The software's completely  
16 archaic. It's cumbersome, difficult to work with. It  
17 goes down on the day that election reports are due.  
18 That's happened.

19 In conjunction with that, once that update has  
20 happened, contemporaneous with that, the need for paper  
21 filing will be eliminated and part of -- and that's all  
22 per statute and legislative changes. And that is, one,  
23 to facilitate making it easier for candidates to file and  
24 meet the transparency requirement, but also an  
25 acknowledgment that the public gets its information from

1 the online resource tool.

2 Q Do you think that there's any significance to  
3 the Secretary of State waiving liability for the late  
4 paper reports in the general election in this campaign?

5 A You know, I -- my -- my opinion is the daily  
6 late filing is in statute and -- sorry. Could you ask  
7 the question again?

8 THE COURT: Would you like it read back to you?

9 MS. SHELLEY: Yes.

10 THE COURT: Madam Court Reporter --

11 BY MS. SHELLEY:

12 Q I think I asked if -- I think I asked, Do you  
13 have an opinion of the significance of the Secretary of  
14 State's office waiving liability for all the paper  
15 reports that were late in the general election  
16 preelection reports?

17 A Well, I mean, the Secretary of State's Political  
18 Reform Division has discretion to take into consideration  
19 things like unique circumstances of a campaign, the fact  
20 that somebody's a first-time candidate, the fact that the  
21 missed filings were unintentional, and has the discretion  
22 to either levy the full fines or write a partial waiver  
23 or waive them completely.

24 Q And what is your assessment of the public harm  
25 of the late reports in this campaign?



1           A    In this campaign, I don't think that there  
2 really is public harm.  The only -- the -- out of  
3 everything that took place during these two elections,  
4 the special primary and the special general, the only  
5 thing not captured were like I mentioned about 10 or 12  
6 percent of contributions received.

7           I think the point you were alluding to earlier  
8 is that on the Form 460, many of them are reported as a  
9 lump sum and what that means is that for the -- for the  
10 \$28,500 contributions that were reported, you're also  
11 reporting who made the donation because of the amount  
12 that they were, what their employer and occupation is.  
13 So you're getting a picture of who your donors are.  The  
14 unitemized donations reported as a lump sum, those are  
15 your \$25 here, \$50 here.  You don't have to -- on no  
16 report would you have to say who the donors are.  You  
17 just report the raw numbers.

18           So I think the -- the one thing that did not get  
19 disclosed were the expenditures that you had during that  
20 reporting period, which were about 28 -- a little over  
21 \$28,000.  So aside from that, the public had a lot of  
22 information well before the election about your campaign  
23 committees' activities.

24           Q    And considering that this was a losing campaign,  
25 does that affect the perception of public harm, in your

1 opinion?

2 A It does, and from what I have observed with the  
3 FPPC, when they do stipulated settlements, which are  
4 available on their website -- you can peruse those --  
5 they will take into consideration if the candidate has  
6 lost, that that is a mitigating factor as it relates to  
7 public harm.

8 Q And in the Enforcement Manual where it explains  
9 the flowchart for investigations and it states on page 29  
10 that the case evaluation is made by Commission council:  
11 One, Is there sufficient evidence of a violation? And  
12 two, If yes, does the harm justify a fine? In your  
13 opinion, does the harm justify a fine?

14 A I believe that under the current regulations,  
15 this would be a very close candidate for a new regulation  
16 that allows certain types of violations to go into a  
17 streamlined program and possibly get a warning letter. I  
18 don't know if it precisely fits into the current  
19 regulation, but I do think that this -- these facts are  
20 sufficient for either a warning letter or a very low  
21 de minimis fine.

22 Q And what is the new regulation that's currently  
23 being considered?

24 A So it actually is a newly adopted regulation --

25 Q Newly adopted?

1           A    -- and it just, you know -- full disclosure,  
2   it's several pages long and not -- convoluted, but the  
3   gist of it is that different types of violations will  
4   qualify for a streamlined process.

5           So what that means is they will -- if they meet  
6   a number of mitigating factors and don't have a number of  
7   aggravating factors, then they may qualify for receiving  
8   a warning letter, and I believe that that actually  
9   doesn't even end up on the Commission calendar or agenda  
10  anymore for a vote.

11           And, again, I'm sorry I don't have it in front  
12  of me and it's a new regulation, but the concept is  
13  that -- and late campaign reporting is one of the types  
14  of violations that can qualify for the streamlined  
15  process, but the idea to get a little bit more bright  
16  lines around what fines and penalties are associated with  
17  the most I think common types of violations.

18           Q    But in general, would it be fair to say that  
19  they are calming the penalties a little bit for certain  
20  kinds of violations? That's the general direction?

21           A    My -- that is my observation of general  
22  direction.

23           Q    Let me ask you your opinion of the statement in  
24  the aggravating factor section, paragraph number 50 on  
25  page 10 of the Accusation, "For the preelection period

1 immediately before the 2013 special general election,  
2 Shelley and the 2013 and 2014 committees did not file any  
3 campaign statements in any format, so no disclosure was  
4 available to the public immediately before the special  
5 general election." Is that true?

6 A No. No, because the 497s were filed  
7 electronically and they weren't required to also be paper  
8 copied during that period.

9 MS. SHELLEY: And I have no further questions. Thank  
10 you.

11 THE COURT: Thank you. Ms. Gilbertson?

12

13 CROSS-EXAMINATION

14 BY MS. GILBERTSON:

15 Q Ms. Maltbie, I think I just have a couple  
16 questions for you.

17 Let me go back, and possibly just one because I  
18 think you answered the other one.

19 Going back to something you had said earlier,  
20 you had mentioned that you were asked, In your  
21 experience, do candidates or your clients ever have an  
22 interest in paper statements? And you mentioned that  
23 your client looked online and found nothing and asked for  
24 the paper. Why would that information have been relevant  
25 for your client?

1           A    In particular, that -- and since -- it was an  
2   opponent and it was looking to be a heavily contested  
3   race and so I think the campaign team was doing its due  
4   diligence opposition research on their opponent.

5           Q    So that disclosure timely was important for your  
6   client's race?

7           A    Well, in that case, as it turned out, they  
8   didn't qualify for electronic filing. That's why they  
9   hadn't done any E-filing at this point.

10          Q    Are you familiar with whether or not  
11   Ms. Shelley's candidacy was a heavily contested race?

12          A    Well, so what I understand it to have been is  
13   the -- she did not expect to get into the general, but  
14   then once she was in the general, it was a -- my  
15   understanding is that she contested it quite vigorously.

16          Q    So it was -- you're right. Okay.

17          MS. GILBERTSON: I have no further questions for this  
18   witness.

19          MS. SHELLEY: I have a question on Redirect, if I  
20   may.

21          THE COURT: Go ahead.

22

23                                    REDIRECT EXAMINATION

24   BY MS. SHELLEY:

25          Q    Are the interests of an opponent in a campaign

1 considered public harm? Does that weigh into public  
2 harm, the interest of -- the competitive interest of an  
3 opponent wanting to know how much someone is raising, is  
4 that taken into account as public harm?

5 A Well, I mean, I think one of the -- one of the  
6 purposes of disclosure and transparency is it's also a  
7 way to hold candidates accountable. So I do think it's  
8 fair to say, you know, an opponent wants to make sure  
9 that the other -- their opponent is playing by the same  
10 rules that I'm playing by.

11 Q And do you think it's related to looking for  
12 impropriety or is it just related generally to  
13 competitive interest?

14 A I mean, you know, would -- I mean, I think what  
15 you're asking is if an opponent can't get the information  
16 they want, does that count as a public harm?

17 Q Is it the intent in your opinion of campaign  
18 finance reform law to assist campaigns in their  
19 competition versus allow the public to see fundraising?

20 A I mean, the goal is to allow the public to have  
21 transparency about how campaigns are raising and spending  
22 money.

23 MS. SHELLEY: Thank you. No further questions.

24 THE COURT: All right. I have a couple of questions  
25 for you.

1           So Ms. Maltbie, through your testimony and  
2 through the general impression I have of the defense is  
3 that enforcement of these rules has to take into the  
4 context the difficulty of the system and the practical  
5 considerations that -- practical obstacles that a  
6 first-time candidate has versus a much more experienced  
7 candidate who has a bigger staff and all that; is that  
8 correct?

9           THE WITNESS: Yes.

10          THE COURT: But as a matter of the integrity of the  
11 regulatory system, is it something that should be  
12 addressed on the policy end of it or should it be that  
13 policy is made as it's made and then if the rules are  
14 somehow unfair or difficult, they should be addressed by  
15 nonenforcement or somewhat lenient enforcement? Does  
16 that question make sense?

17          THE WITNESS: I think so.

18          THE COURT: Well, just give it a try.

19          THE WITNESS: Well, one, I think in terms of the  
20 Political Reform Act, the body of law we're dealing with,  
21 you know, each penalty is up to \$5,000. So I think built  
22 into that enforcement is given, you know, quite a bit of  
23 discretion to take in the different considerations and of  
24 course they're indeed required to take into account  
25 various mitigating factors.

1 I think -- I think policy clarity is certainly  
2 sorely needed in this area and particularly -- actually,  
3 particularly in a case like this where you have a  
4 filing -- one agency that is responsible for receiving  
5 campaign reports, another agency that is responsible for  
6 enforcing the Political Reform Act, and so there is  
7 overlap and so you have the same violation on the one  
8 hand, a late penalty has been assessed, you know.

9 I think there's a policy argument for why an  
10 almost identical policy or fine for the exact same  
11 violation shouldn't be assessed by a separate independent  
12 organization. I think that that is probably -- well, not  
13 probably. I do think that that would be best addressed  
14 at the policy level because, you know, right now it's  
15 pretty arbitrary.

16 I've found at times that the FPPC will actually  
17 honor when the Secretary of State has imposed penalties  
18 or waived penalties. By the time it gets to the FPPC's  
19 attention because of a Franchise Tax Board audit, they'll  
20 say, Oh, penalty's already been paid. You know, we'll  
21 leave it alone. But that is not -- so far as I can tell,  
22 that is not a hard, written policy. That is a  
23 negotiation between two agencies.

24 So for the benefit of the regulated community, I  
25 think a policy norm would be incredibly beneficial. It



1 also takes a lot of pressure off the agencies, like the  
2 FPPC, from being accused of being unfair in their  
3 enforcement.

4 THE COURT: All right. Thank you.

5 Any questions based on my question?

6 MS. SHELLEY: I don't think so.

7 MS. GILBERTSON: No.

8 THE COURT: Nothing? All right. Thank you, very,  
9 very much. You may step down.

10 All right. Ms. Shelley, are you your only next  
11 witness or is there somebody else?

12 MS. SHELLEY: I suppose I am. Could I have a moment?

13 THE COURT: Well, now that it is -- how long do you  
14 anticipate your testimony to be?

15 MS. SHELLEY: I'm not certain that I need to testify,  
16 so can I have a moment to consult with someone?

17 THE COURT: Yes. We'll take a recess for 15 minutes.

18 MS. SHELLEY: Okay. Thank you.

19 THE COURT: I think it's likely to take us to the end  
20 of the day, but let's see where we are in terms of how to  
21 plan for tomorrow.

22 MS. SHELLEY: Okay.

23 (Recess)

24 THE COURT: Let's go back on the record.

25 Ms. Shelley, have you decided how to proceed?

1 MS. SHELLEY: I do not want to testify, your Honor,  
2 and I request that we could do a closing statement in  
3 writing to you by a day you set.

4 THE COURT: All right. Ms. Gilbertson, you have  
5 reserved the right to cross-examine Ms. Shelley if she  
6 chooses not to testify. Do you wish to exercise that  
7 right?

8 MS. GILBERTSON: No. That's fine, your Honor.

9 THE COURT: Okay. And you'd like to have closing  
10 statements in writing.

11 How about you?

12 MS. GILBERTSON: I prepared closing arguments, so I  
13 can give them today or would you prefer them in writing  
14 as well?

15 THE COURT: Well, I think if one writes, it's usually  
16 better to have another one write.

17 MS. GILBERTSON: That's fine.

18 THE COURT: And if that's the case, we can actually  
19 finish today, so I'll suggest a briefing schedule. I  
20 usually direct the parties to make parallel submissions  
21 and then parallel replies unless there's an objection.  
22 Does that sound acceptable to both parties? Either  
23 party?

24 MS. SHELLEY: That's fine.

25 MS. GILBERTSON: So just to clarify, that would be

1 one date for the submission? We both submit on the same  
2 day and then we both have to submit a reply on the same  
3 day?

4 THE COURT: Correct. And if that's the case, then  
5 what's a reasonable amount of time, Ms. Shelley, for you?

6 MS. SHELLEY: A week? Two weeks? Two weeks would be  
7 ideal.

8 THE COURT: Two weeks would be ideal? All right.  
9 I'll make the closing -- the initial closing statements  
10 for both parties due -- that would be July 3rd and any  
11 response by either party will be due on July 10th. You  
12 don't have to respond, but that's the date the record  
13 will close.

14 MS. SHELLEY: Okay.

15 THE COURT: All right? So with that, pending those  
16 closing statements, the matter is deemed submitted and  
17 once all of the post-hearing submissions are in, I have  
18 30 days to make my decision, which is a proposed  
19 decision, and I send that to the FPCC and then I think it  
20 will contact you, Ms. Shelley, regarding any next steps.

21 If either party would like a transcript, the  
22 court reporter has a billing detail that gives the  
23 information for how to obtain that transcript.

24 I thank you both very much and with that, we are  
25 adjourned and off the record.

(Proceedings concluded at 4:27 p.m.)

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1 REPORTER'S CERTIFICATION

2  
3 I, the undersigned, a Certified Shorthand  
4 Reporter of the State of California, do hereby certify:

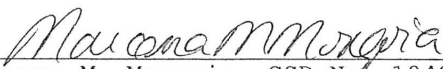
5 That the foregoing proceedings were taken before  
6 me at the time and place herein set forth; that any  
7 witnesses in the foregoing proceedings, prior to  
8 testifying, were duly sworn; that a record of the  
9 proceedings was made by me using machine shorthand, which  
10 was thereafter transcribed under my direction; that the  
11 foregoing transcript is a true record of the testimony  
12 given.

13 Further, that if the foregoing pertains to the  
14 original transcript of a deposition in a federal case,  
15 before completion of the proceedings, review of the  
16 transcript was not requested.

17 I further certify I am neither financially  
18 interested in the action nor a relative or employee of any  
19 attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date subscribed  
21 my name.

22 Dated: July 1, 2019

23   
24 Marcena M. Munguia, CSR No. 10420  
25 Certified Shorthand Reporter  
For The State Of California

<hr/> <b>\$</b> <hr/>	<b>\$550</b> 8:12 101:18 102:8	<b>10/7</b> 115:23	<b>112</b> 9:14,16
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