

1 SUSAN G. SHELLEY

2 [Redacted]
3 Electronic Mail: Susan@SusanShelley.com

4 Respondents, In Pro Per
5

6 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

7 STATE OF CALIFORNIA

10 In the Matter of

11 SUSAN G. SHELLEY, SUSAN SHELLEY
12 FOR ASSEMBLY 2013 and SUSAN
13 SHELLEY FOR ASSEMBLY 2014

14 Respondents.
15

) FPPC No.: 15/003
) OAH No.: 2019030096
) Assigned Judge: Hon. Deena Ghaly
)
) RESPONDENTS' MOTION TO DISMISS
) ACCUSATION
)
)
) *Hearing Dates: June 19, 2019 – June 21, 2019*
) *Place: 320 W. Fourth Street, # 630,*
) *Los Angeles, Calif. 90013*

18
19 TO THE HONORABLE DEENA GHALY, TO ALL PARTIES HEREIN AND TO THEIR
20 ATTORNEYS OF RECORD:

21 NOTICE IS HEREBY GIVEN that on June 19, 2019 at 9:00 a.m. or as soon thereafter as this
22 matter may be heard in Room # 630 of 320 W. Fourth Street, Los Angeles, Calif. 90013,
23 Respondents, Susan G. Shelley, Susan Shelley For Assembly 2013 and Susan Shelley for
24 Assembly 2014 will and do hereby move to dismiss the Accusation in the above entitled action
25 on the following grounds:

26 1. The continued prosecution of this Accusation constitutes a violation of the Double Jeopardy
27 Clause of the 5th Amendment to the United States Constitution and is barred as a matter of law. It
28 is a deeply entrenched concept of criminal law that a State should not be allowed to make

1 repeated attempts to convict an individual for an alleged offense (See Cal. Penal Code section
2 687);

3 2. According to the Accusation, there are factors to be considered by the Fair Political Practices
4 Commission (FPPC) and the Administrative Law Judge (ALJ) in framing a proposed order
5 following the finding of a violation pursuant to Section 83116, the determination by the FPPC
6 that there is probable cause for believing the Political Reform Act has been violated.

7 The FPPC and the ALJ “shall consider all the surrounding circumstances including but not
8 limited to: (1) The seriousness of the violation; (2) the presence or absence of any intention to
9 conceal, deceive or mislead; (3) whether the violation was deliberate, negligent or inadvertent;
10 (4) whether the violator demonstrated good faith by consulting the Commission staff or any other
11 government agency in a manner not constituting a complete defense under Section 83114(b); (5)
12 whether the violation was isolated or part of a pattern and whether the violator has a prior record
13 of violations of the Act or similar laws; and (6) whether the violator, upon learning of a reporting
14 violation, voluntarily filed amendments to provide full disclosure.”

15 This case arose from a routine audit by the Political Reform Audit Program of the State of
16 California Franchise Tax Board. According to the FPPC's Amended Report in Support of a
17 Finding of Probable Cause, dated April 18, 2017:

18 “The evidence shows that Shelley was a first-time candidate for state office acting as her own
19 campaign treasurer, and she made a good-faith effort to familiarize herself with and comply with
20 the complex and compressed reporting requirements for the special elections. Additionally, the
21 evidence demonstrates Shelley consulted Commission staff throughout her campaign regarding
22 disclosure issues. Shelley and the 2013 and 2014 Committees have no history of enforcement
23 action. A review of the audit report and supporting papers indicates no evidence of deliberate
24 concealment or intent to deceive the public. The Enforcement Division confirmed the FTB's
25 audit findings showing that Shelley and the 2013 and 2014 Committees substantially complied
26 with the Act’s campaign reporting requirements during the audit period, as well as in campaign
27 statements for reporting periods between January 1, 2014 and June 30, 2015.”

1 The FPPC concedes (2) the absence of any intent to conceal, deceive or mislead; the
2 Franchise Tax Board's audit report concludes, and the FPPC has confirmed, there was (3) no
3 evidence of deliberate concealment or intent to deceive the public; the FPPC acknowledges (4)
4 that the candidate demonstrated good faith and consulted the Commission staff throughout her
5 campaign. The evidence shows that Shelley proactively and on her own initiative sought the
6 Commission staff's advice to (6) file amendments or reports if needed, and that the Commission
7 staff did not request any amendments or reports from her or inform her of any problems that
8 needed to be corrected. The FPPC acknowledges that Shelley and the 2013 and 2014 committees
9 have no history of enforcement action (5), and there is no pattern of violations because all the
10 late filings at issue in this case occurred between 8/8/13 and 11/7/13, a period of 90 days during
11 which Shelley was actively campaigning in the compressed special election schedule, and
12 Shelley's first notification of late filing was in letters from the Political Reform Division of the
13 office of Secretary of State (SOS) dated January 27, 2014, more than two months after the
14 special general election was over. Once notified, she immediately sought to correct all errors and
15 paid late fees assessed by the SOS.

16 The (1) "seriousness" of the alleged violations is fully mitigated by the fact that Shelley
17 timely filed Form 497 reports throughout the campaign, disclosing 84% of required donor
18 information during the second pre-election reporting period prior to the special general election
19 on 11/19/13. The "seriousness" is further mitigated by the additional disclosures made by
20 Shelley and the 2014 committee in Form 460 reports filed on 4/22/13 and 7/30/13. It is one of
21 the "unique" circumstances of this election that although the funds raised in the 2014 committee
22 (at the state's instruction) had to be transferred to the 2013 committee in order to be legally spent
23 on the 2013 campaign, they were fully disclosed six weeks or more before the special election
24 primary on September 17, 2013. The "seriousness" is even further mitigated by the fact that
25 Shelley lost the election and did not attain public office.

26 In considering "all the surrounding circumstances," the FPPC and the ALJ are bound to
27 consider what the Accusation acknowledges as the "unique" circumstances of this election:
28 candidates were instructed to open a 2014 committee in order to legally raise funds for the

1 anticipated 2013 special election, and then to transfer the funds to a 2013 committee to be legally
2 spent. It was a unique burden for a first-time state candidate acting as her own treasurer, in an
3 all-volunteer campaign with no paid staff, to have the additional challenge of a second active
4 committee, which doubled the reporting requirements for two elections that were only 60 days
5 apart.

6 3. Respondent, Susan Shelley, was a first-time state candidate for the California State Assembly,
7 45th District, in 2013, “special” primary and “special” general election, and has already been
8 deemed by the Political Reform Audit Program of the State of California Franchise Tax Board,
9 and the FPPC confirmed this result, to have “substantially complied with the Act’s campaign
10 reporting requirements during the audit period, as well as in campaign statements for reporting
11 periods between January 1, 2014 and June 30, 2015,” as stated in the FPPC’s Amended Report in
12 Support of a Finding of Probable Cause, dated April 18, 2017.

13 4. Respondent’s campaign committees (2013 and 2014) were assessed fines by the Secretary of
14 State’s Office for the late filing of pre-election campaign statements, all of which occurred
15 between August 8, 2013, and November 7, 2013, and these have been paid by Respondent; the
16 Secretary of State’s Office issued a full waiver of liability or reduction of liability for “good
17 cause” for 6 of the 8 late-filed campaign statements that are the subject of counts 2 through 5 of
18 this Accusation.

19 5. The Franchise Tax Board has determined, and the FPPC confirmed this result, that Ms.
20 Shelley was a first-time candidate for state office acting as her own campaign treasurer, and she
21 made a good-faith effort to familiarize herself with and comply with the complex and
22 compressed reporting requirements for the special elections; and that the evidence demonstrates
23 Shelley consulted Commission staff throughout her campaign regarding disclosure issues; and
24 that Shelley and the 2013 and 2014 Committees have no history of enforcement action; and that
25 a review of the audit report and supporting papers indicates no evidence of deliberate
26 concealment or intent to deceive the public.

27 6. The Franchise Tax Board has determined that a Pre-election Statement for the period October
28 6, 2013, through November 2, 2013, was not filed with the Secretary of State (SOS) by Shelley

1 and the 2014 committee. However, receipts and expenditures of this committee during this
2 period totaled \$266.00 and \$0.00, respectively, and the \$266 was merely an intra-candidate
3 transfer of funds from the 2013 committee. The activity for this period was reported on the
4 candidate's Semi-Annual Statement filed for the period ending December 31, 2013. A copy of
5 the Franchise Tax Board's Audit Report supports this conclusion, and the FPPC has confirmed
6 this result. The Secretary of State's office issued a full waiver of liability for the late-filed paper
7 report and reduced the liability for the late electronic filing to \$100. This fine was paid.

8 7. The Franchise Tax Board has determined that a Pre-election Statement for the period October
9 6, 2013 through November 2, 2013, was not filed with the Secretary of State (SOS) by Shelley
10 and the 2013 committee. Receipts and expenditures during this period totaled \$36,580 and
11 \$28,663, respectively. But during this period, Shelley and the 2013 committee timely filed
12 reports of monetary contributions totaling \$28,500 on eleven (11) separate Form 497 reports.
13 Therefore, 78% of contributions during this period were fully and timely disclosed. Furthermore,
14 during this same time period, the Shelley for Assembly 2013 committee received \$2,355 in
15 contributions under \$100 as recorded in credit card donation records and bank deposits. These
16 small contributions are not required to be itemized by date received, nor are they required to
17 disclose information about the donors, such as address, employer and occupation. To the
18 contrary, contributions of less than \$100 are reported as a single lump sum. Therefore, during the
19 relevant reporting period, the Shelley 2013 campaign committee disclosed over 84% of
20 contributor information that was required on the Form 460 before the election.

21 The activity for this period was reported on the candidate's Semi-annual Statement filed for the
22 period ending December 31, 2013. A copy of the Franchise Tax Board's Audit Report supports
23 this conclusion, and the FPPC has confirmed this result. The Secretary of State's office found
24 "good cause" to issue a full waiver of liability for the late-filed paper report and reduce the
25 liability for the late electronic filing to \$300. This fine was paid.

26 8. The rest of the FPPC's complaint (Accusation) is that three (3) Pre-election Statements were
27 not timely filed by one or both of the two committees:

28 *For The September 17, 2013 Special Primary Election*

1 a. for the Statement Period 1/1/13 -8/03/13, the due date was 8/8/13 – Susan Shelley and the
2 2013 committee electronically filed the report on 8/19/13 (11 days late) and the paper format
3 was filed on 10/2/13. The evidence demonstrates that Shelley consulted the Commission staff
4 before and after filing this report electronically due to what the FPPC has acknowledged in the
5 Accusation was the “unique” complexity of the two-committee reporting. The Secretary of
6 State’s office assessed a fine of \$550 for the late filing by the 2013 committee as well as a fine of
7 \$660 for the parallel filing by the 2014 committee. These fines have been paid.

8
9 *For The Special General Election of November 19, 2013*

10 b. For the Statement Period 9/1/13- 10/5/13, the due date was 10/10/13 – Susan Shelley filed her
11 statements for the 2013 and 2014 committees electronically on 10/21/13 (11 days late) and she
12 filed her paper format on 2/6/14. The Secretary of State’s office issued a full waiver of liability
13 for the late filing of the paper reports for “good cause.” The SOS did not waive liability for the
14 late electronic filings, and assessed fines of \$110 to each committee. These fines have been paid.

15 9. The filing and pursuit of this Accusation is a prime example of wasteful government
16 spending and the useless prosecution of a (defeated) first-time candidate for elective State Office
17 whose actions have already been deemed substantial compliance by another California State
18 Agency (Franchise Tax Board), a conclusion that has been confirmed by the FPPC. There was a
19 good-faith effort to comply with all provisions of the California Government Code by the
20 candidate, who was grappling with the unique requirement to have two committees for the same
21 election, and the public was not deceived by the candidate.

22 10. The FPPC has acknowledged that there is no history of enforcement action by the
23 Respondent or her 2013 and 2014 campaign committees. The evidence shows that Shelley was a
24 first time candidate for state office acting as her own campaign Treasurer and she made a good
25 faith effort to familiarize herself with, and comply with, the complex and compressed reporting
26 requirements for the special election. The evidence demonstrates Shelley consulted the FPPC
27 staff throughout her campaign at least three times on 8/16/13, 8/19/13 and 12/20/13 regarding
28 disclosure issues, and relied upon the advice she received. The Franchise Tax Board’s audit

1 report concludes, and the FPPC has confirmed, there was no evidence of deliberate concealment
2 or intent to deceive the public. Shelley and her committees substantially complied with the
3 Political Reform Act's campaign reporting requirements during the audit period, as well as in
4 campaign statements for reporting periods between January 1, 2014 and June 30, 2015. The
5 Secretary of State's office has already assessed a total of \$2,210 in fines for the late filings of
6 pre-election reports by the two committees, all of which were due within a 90-day period for the
7 2013 special primary election held on 9/17/13 and the special general election held on 11/19/13,
8 and these fines have been paid.

9 11. The Fair Political Practices Commission is attempting to violate the 5th Amendment Double
10 Jeopardy Clause and California Penal Code section 687 by bringing this Accusation against
11 Respondent.

12 12. The Fair Political Practices Commission acknowledged in a news release in February 2015,
13 announcing the launch of an "Online Toolkit for New Candidates," that "candidates without
14 extensive campaign experience or a specialized attorney" faced difficulties in determining "how
15 to comply with various rules and laws involved in running for office." Then-Chair Jodi Remke
16 stated, "We want to encourage people to participate in the political process."

17 13. The FPPC states in the Accusation, "The Enforcement Division has reduced the number of
18 violations charged in this case in light of any potential confusion that may have occurred due to
19 the multiple committees." However, the confusion, and the burden of complex double filing
20 requirements for two elections in a compressed 90-day period during the campaign, constitute an
21 equal factor in each and every one of the violations alleged. It is arbitrary to select a limited
22 number of violations to charge when the unique circumstances apply equally to all the violations
23 charged. None of these alleged violations warrant charges given "all the surrounding
24 circumstances."

25 14. FPPC regulation 18361.4(e) states: "The hearing officer shall not make a finding of
26 probable cause if he or she is presented with clear and convincing evidence that, at a time prior
27 to the alleged violation, the violator consulted with the staff of the Commission in good faith,
28 disclosed truthfully all the material facts, and committed the acts complained of either in reliance

1 on the advice of the staff or because of the staff's failure to provide advice.” The evidence shows
2 that Ms. Shelley sought the advice of the staff of the Commission in good faith, disclosed
3 truthfully all material facts, relied on the advice of the staff, and did not receive the most basic
4 assistance: a simple notification of the filing schedule of required reports. The FPPC has
5 acknowledged by its 2015 creation of a candidate toolkit that new candidates were having
6 difficulties finding all the information they needed to comply with the law and regulations. The
7 case against Ms. Shelley for alleged violations in the 2013 campaign stems from the precise
8 problem that the agency sought to address in 2015. The case should be closed without further
9 action.

10 11 I

12 INTRODUCTION

13 Respondents, SUSAN G. SHELLEY, SUSAN SHELLEY FOR ASSEMBLY 2013 and
14 SUSAN SHELLEY FOR ASSEMBLY 2014 have been named in the above-referenced
15 Accusation by the Fair Political Practices Commission in connection with Respondent Susan G.
16 Shelley’s efforts to win a seat in the California Assembly in 2013. Shelley For Assembly 2013
17 and Shelley For Assembly 2014 were candidate-controlled committees. According to the
18 Accusation, candidates who intended to run in an anticipated 2013 special election were
19 instructed to open a 2014 campaign committee in order to legally raise funds that were intended
20 to be spent on the 2013 campaign.

21 According to the Accusation, Robert Blumenfield, a member of the California State
22 Assembly, representing the 45th District in Los Angeles, was scheduled to term out of office in
23 2014. In March 2013, Blumenfield won election to the Los Angeles City Council, District 3. His
24 term on the City Council was to begin July 1, 2013. He vacated his State Assembly office
25 effective June 30, 2013.

26 In accordance with the instructions from state officials to candidates who intended to run in
27 the anticipated 2013 special election, Shelley filed a Candidate Intention Statement on January
28 14, 2013, and a Statement of Organization on February 20, 2013, establishing the Shelley for

1 Assembly 2014 committee, ID #1355796. Shelley made a \$25,000 personal loan to the
2 committee, which was disclosed along with any other contributions on a Form 460 “quarterly”
3 report filed electronically on April 22, 2013. Shelley made an additional loan of \$5,000 to the
4 committee, which was disclosed along with any other contributions on a Form 460 semi-annual
5 report on July 30, 2013. Another contribution made to the 2014 committee was disclosed in a
6 Form 497 report on 8/4/13. The 2014 committee stopped accepting contributions for the 2013
7 campaign once the bank account for the 2013 committee, ID #1358945, was opened.

8 In accordance with the direction of state officials, funds in the 2014 committee were
9 transferred to the 2013 committee in order to be spent on the 2013 campaign. Therefore, the
10 public had full disclosure of these contributions and their donors before the first pre-election
11 report was due on August 8, 2013.

12 The Special Primary Election was called in early July 2013, scheduled for September 17,
13 2013. Vote-by-mail voting began in mid-August, creating an intense and compressed schedule,
14 which became even more intense and compressed for the Special General Election, scheduled for
15 November 19, 2013, with vote-by-mail balloting beginning in mid-October.

16 The Accusation reads that Respondent had a duty to timely file pre-election statements and
17 that she failed to timely file her pre-election campaign statements in violation of Government
18 Code sections 84200.5 (c) and 84200.8(a).

19 As a first-time state candidate and treasurer in an all-volunteer campaign with two committees
20 and no paid staff, Shelley made a good-faith effort to find and understand all the requirements of
21 a state campaign. At the time the 2014 committee was established, no filing schedule for the
22 special election existed, because it had not yet been called. Shelley looked for information on the
23 Los Angeles County Registrar/Recorder’s website and the Secretary of State’s website. As late
24 as April 2014, she believed, and so stated in her requests for a waiver of liability for late filing,
25 that all requirements of candidates related to filing reports were listed somewhere on the website
26 of the Secretary of State. She learned from the FTB auditor in the summer of 2014 that the filing
27 schedule was actually somewhere on the FPPC’s website.

1 There was no notification to candidates by the FPPC of the filing schedule, and no listing of
2 the filing deadlines on the calendar of dates for the 2013 election which was given to candidates
3 by the L.A. County Registrar/Recorder's office and also posted on its website. The FPPC later
4 acknowledged the difficulty that new candidates like Shelley had in finding all the requirements
5 by establishing, in February 2015, its Online Toolkit for New Candidates. In the FPPC's press
6 release, Chris McKenzie, executive director of the League of California Cities, was quoted as
7 saying, "Having election information and requirements in one place will make the process of
8 running for office more easily accessible for people who want to serve their communities in an
9 elected capacity."

10 Shelley made a good-faith effort to find all the information and wrote to the
11 advice@fppc.ca.gov email address suggested on the Secretary of State's website for questions. In
12 an email on August 16, 2013, to the FPPC advice staff, she concluded with, "Thank you for your
13 assistance. I'm making every effort to comply with everything, and it's a daunting task." In
14 another email on August 19, 2013, she concluded with, "Your help would be most appreciated.
15 I'll file an amended report, or two amended reports, if you can tell me how this should be
16 reported." In an email on December 20, 2013, following the election, she concluded with, "In a
17 related matter, I acted as my own treasurer and would like to make sure the campaign's reporting
18 is in full compliance. I made every effort during the campaign to file all required reports as
19 completely and accurately as possible. Please let me know if anything is missing or incorrect."
20 The FPPC advice staff did not respond to that request, and never sent the filing schedule or a link
21 to the page on the FPPC website where the filing requirements could have been found, despite
22 the clear lack of knowledge of the candidate who was seeking help.

23 In the Prayer section of the Accusation, the FPPC seeks an order that Shelley pay a monetary
24 penalty of up to \$5,000.00 for each of the five (5) Counts included in the Accusation. What the
25 FPPC fails to include in the Accusation is that the office of the Secretary of State of California
26 has already reviewed these late filings, assessed some fines and waived or reduced others for
27 "good cause," and that all fines assessed, \$2,210 in total for the late filing of pre-election reports
28 by two committees for two elections within a 90-day period, have been paid by the Respondent.

1 The FPPC also fails to include in the Accusation that the California Franchise Tax Board
2 (Political Reform Audit Program) performed an audit of Respondent’s two committees and
3 found substantial compliance with the disclosure and recordkeeping provisions of the Political
4 Reform Act (Government Code Section 81000 et seq.) and related rules and regulations of the
5 Fair Political Practices Commission, a conclusion confirmed by the FPPC. Despite this, the
6 FPPC is trying to assess further fines of \$25,000.00 against the Shelley 2013 and 2014 campaign
7 committees.

8 II

9 THE FPPC IS ESTOPPED FROM PURSUING THIS ACCUSATION

10 Equitable estoppel is a doctrine . . . based upon consideration of justice and good conscience . . .
11 Equitable estoppel is a rule of justice and government should be held to the same standard of
12 rectilinear rectitude that it demands from its citizens and that the government’s immunity from
13 estoppel is in fact “exemption from requirements of morals and justice. US v. Georgia- Pacific
14 Co. (9th Cir. 1970) 421 F. 2d. 92. See also Brandt v. Hickel (9th Cir. 1970) 427F. 2d. 53, 56
15 where the Court has held that a “crucial misstatement” was enough to estop the government.
16 Estoppel is available against the government if “the government’s wrongful conduct threatens to
17 work a serious injustice and if the public’s interest would not be unduly damaged. See United
18 States v. Lazy FC Ranch, (9th Cir. 1973), 481 F. 2d 985; Gestuvo v. Immigration and
19 Naturalization Service, 337 F. Supp. 1093 (C.D. Cal. 1971).

20 In its Accusation, at paragraph 49, the FPPC acknowledges in this case where candidates had
21 two committees open for the 45th Assembly District that this was a “unique” situation. The FPPC
22 acknowledges the confusion arising due to multiple committees simultaneously operating by the
23 FPPC’s own rules. There are no aggravating factors because the FPPC misrepresents in
24 paragraph 50 of the Accusation that Respondents did not file “any campaign statements in any
25 format so no disclosure was available to the public immediately before the Special General
26 election.” The FPPC’s statement that there was “no disclosure” during the 2nd pre-election
27 report period is flat-out wrong. During the relevant reporting period, the Shelley 2013 campaign
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1 committee filed timely Form 497 reports, disclosing over 84% of contributor information that
2 was required on the late-filed Form 460 before the election.

3 III

4 THE PUBLIC HAS NOT BEEN MISLED BY THE
5 ACTIONS OF THE RESPONDENTS

6 The Respondents have filed all campaign statements as required by law and have paid late-
7 filing fines assessed by the Secretary of State. The Respondents were deemed to have
8 “substantially complied with the Act’s campaign reporting requirements” by the Franchise Tax
9 Board, after thorough audit of that State agency, and the FPPC has confirmed this result. As
10 evidence of the good faith action of Respondents, there is no request made by the FPPC that
11 Respondents file any amendments to their campaign statements. Good faith actions are always a
12 defense to alleged violation of the Political Reform Act and related regulations.

13 IV

14 THE FPPC AND FRANCHISE TAX BOARD
15 HAVE ALREADY DETERMINED THAT
16 RESPONDENTS SUBSTANTIALLY COMPLIED WITH
17 THE POLITICAL REFORM ACT’S REPORTING REQUIREMENTS

18 The FPPC has prepared its “Amended Report In Support Of A Finding Of Probable Cause”
19 and acknowledges in the “Summary Of The Evidence” section, the following:

20 “FTB’s audit, and the Enforcement Division of the Fair Political Practices Commission
21 confirmed, that Shelley and the 2013 and 2014 Committees substantially complied with the
22 Act’s campaign reporting requirements.” The FPPC also acknowledges in this same documents
23 that Respondent filed both electronic and paper reports. In the “Exculpatory And Mitigating
24 Information” section of its Amended PC Report, the FPPC states:

25 “The evidence shows that Shelley was a first time candidate for state office acting as her own
26 campaign treasurer, and she made a good-faith effort to familiarize herself and comply with the
27 complex and compressed reporting requirements for the special elections. Additionally, the
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1 evidence demonstrates Shelley consulted Commission staff throughout her campaign regarding
2 disclosure issues.

3 “Shelley and the 2013 and 2014 Committees have no history of enforcement action. A review
4 of the audit report and supporting papers indicates no evidence of deliberate concealment or
5 intent to deceive the public. The Enforcement Division confirmed the FTB’s audit findings
6 showing that Shelley and the 2013 and 2014 Committees substantially complied with the Act’s
7 campaign reporting requirements during the audit period, as well as in campaign statements for
8 reporting periods between January 1, 2014 and June 30, 2015.”

9 V

10 CONCLUSION

11 The question remains why a State agency would continue to pursue this Accusation when it
12 already acknowledges that Respondents made good-faith efforts to comply with the Political
13 Reform Act and related regulations. The FPPC acknowledges that Respondents did not deceive
14 the public and did not engage in any intentional concealments. Furthermore, the Franchise Tax
15 Board conducted an audit of the Respondents’ committees and found Respondents to be in
16 substantial compliance with the Act’s campaign reporting requirements, and the FPPC confirmed
17 this conclusion.

18 The FPPC has engaged in a bad faith prosecution of this action while acknowledging good
19 faith efforts to comply with reporting requirements by Respondents. The FPPC is not requiring
20 amendments to the campaign statements of Respondents, and nowhere in the charging document
21 does it even disclose or acknowledge that the Secretary of State assessed fines for the same late
22 filings and SHELLEY has paid these fines. This is a clear case of a double jeopardy prosecution
23 that violates the 5th Amendment of the U.S. Constitution and California Penal Code section 687.

24 For the above stated reasons, the Court should dismiss this Accusation against Respondents.

25 Dated: June 19, 2019

26 SUSAN G. SHELLEY

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ASSEMBLY 2014