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7
8

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

9
10
11 In the Matter of) FPPC No. 15/003
12)
13 SUSAN G. SHELLEY, SUSAN) **ACCUSATION**
14 SHELLEY FOR ASSEMBLY 2013 and)
SUSAN SHELLEY FOR ASSEMBLY)
15 2014,) (Gov. Code §11503)
16)
17 Respondents.)

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, after a finding
19 of probable cause pursuant to Government Code section 83115.5, alleges the following:

20 **JURISDICTION**

21 1. Complainant is the Enforcement Division of the Fair Political Practices Commission and
22 makes this Accusation in its official capacity and in the public interest.

23 2. The authority to bring this action is derived from Title 2, California Code of Regulations,
24 Sections 18361 and 18361.4, subdivision (e), and the statutory law of the State of California, specifically
25 including, but not limited to, Government Code sections 83111, 83116, and 91000.5, which assign to the
26 Enforcement Division the duty to administer, implement, and enforce the provisions of the Political
27 Reform Act, found at Government Code sections 81000 through 91014.
28

1
2 **B. Duty to Timely File Pre-election Statements**

3 11. In 2013, all candidates for offices being voted upon in elections not held in June or
4 November of an even-numbered year, and their controlled committees, must file pre-election statements
5 as follows: 1) For the period ending 45 days before the election, the statement must be filed no later than
6 40 days before the election; 2) For the period ending 17 days before the election, the statement must be
7 filed no later than 12 days before the election.⁶

8 12. For the September 17, 2013 Special Primary Election, the first pre-election statement was
9 due on August 8, 2013 for the reporting period of January 1 through August 3, 2013, and the second pre-
10 election statement was due on September 5, 2013 for the reporting period of August 4 through August 31,
11 2013.

12 13. For the November 19, 2013 Special General Election, the first pre-election statement was
13 due on October 10, 2013 for the reporting period of September 1 through October 5, 2013, and the second
14 pre-election statement was due on November 7, 2013 for the reporting period of October 6 through
15 November 2, 2013.

16 14. When a candidate controls multiple committees, each of those committees must file pre-
17 election statements when the candidate is on the ballot in an upcoming election.⁷

18 **C. Duty to File Statements Online**

19 15. A candidate for state elective office and his or her controlled committee must file campaign
20 statements, reports, or other documents online or electronically when the total cumulative reportable
21 amount of contributions received, expenditures made, loans made, or loans received is \$25,000 or more.⁸
22 In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016,
23 must be included.⁹ Once a person meets the \$25,000 threshold and qualifies as an electronic filer, the
24
25
26

27 ⁶ §§8400.5, subd. (c) (amended in 2016) and 84200.8, subd. (a) and (b).

⁷ Reg. 18405.

28 ⁸ § 84605, subd. (a)(1).

⁹ § 84605, subd. (a)(1).

1 person must file all following reports online or electronically.¹⁰ Electronic filers must continue to file
2 statements and reports in paper format, which is the official filing for audit and other legal purposes.¹¹

3 **D. Candidate and Treasurer Liability**

4 16. Every committee must have a treasurer.¹² It is the duty of a committee's candidate and
5 treasurer to ensure that the committee complies with all of the requirements of the Act concerning the
6 receipt and expenditure of funds and the reporting of such funds.¹³ A committee's candidate and treasurer
7 may be held jointly and severally liable with the committee for any reporting violations.¹⁴

8 **E. Factors to be Considered by the Fair Political Practices Commission**

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

18 **GENERAL FACTS**

19 18. Robert Blumenfield, a member of the California State Assembly, representing the 45th
20 District, was scheduled to term out of office in 2014. In March 2013, Blumenfield won election to the Los
21 Angeles City Council, 3rd District. Blumenfield's term on the LA City Council began in July 2013, so he
22 vacated his Assembly office effective June 30, 2013. Candidates wishing to raise funds before July 2013
23 to campaign for Blumenfield's vacated Assembly seat were instructed to first establish 2014 campaign
24

25
26 ¹⁰ § 84605, subd. (d).

¹¹ § 84605, subd. (f).

27 ¹² § 84100.

¹³ § 84100; Reg. 18427.

28 ¹⁴ §§ 83116.5 and 91006; Reg. 18316.6.

¹⁵ Reg. 18361.5, subd. (d).

1 committees, then transfer the funds to 2013 campaign committees once Blumenfield officially vacated the
2 seat.

3 19. In January 2013, Shelley filed a statement of intention to run for the 45th Assembly District
4 seat in the 2014 election. She filed a statement of organization for the 2014 Committee on February 20,
5 2013, with a qualifying date of February 8, 2013. Following Blumenfield vacating the seat, Shelley filed
6 a new statement of intention on July 10, 2013 for the 2013 special elections, and a statement of
7 organization for the 2013 Committee on July 11, 2013, with a qualifying date of July 8, 2013.

8 20. The following table details statements filed by the 2013 Committee for 2013:

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

23 21. Because Shelley was the controlling candidate for the 2014 Committee, and she was on the
24 ballot in the 2013 special primary and general elections, the 2014 Committee was required to file pre-
25 election statements for the 2013 elections. The following table details statements filed by the 2014
26 Committee for 2013:

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

22. In the 2013 Special Primary Election, Shelley received the second most votes out of ten candidates, which qualified her for the 2013 Special General Election. She lost the 2013 Special General Election by 319 votes, a margin of approximately 1% of voters. In the 2014 Primary Election, Shelley was one of two candidates so both qualified for the 2014 General Election. Shelley lost the general election to the incumbent by 11,266 votes, a margin of approximately 14% of voters.

PROCEDURAL HISTORY

23. The Enforcement Division initiated this administrative action against Shelley, the 2013 Committee, and the 2014 Committee by serving Shelley with a packet containing a cover letter, a Report in Support of a Finding of Probable Cause (“PC Report”), a fact sheet regarding probable cause proceedings, selected sections of the Government Code regarding probable cause proceedings for the Commission, and selected regulations of the Commission regarding probable cause proceedings.

24. Shelley was served with the PC Report individually and on behalf of the 2013 Committee and the 2014 Committee by certified mail on or before October 17, 2016. The information contained in the PC Report packet advised Shelley she had 21 days in which to request a probable cause hearing and/or to file a written response to the PC Report.

1 31. Shelley and the 2013 Committee filed the pre-election statement for the January 1, 2013
2 through August 3, 2013 period in paper format on October 2, 2013, and in electronic format on August
3 19, 2013.

4 32. By failing to timely file this pre-election statement, Shelley and the 2013 Committee
5 violated sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

6 **Count 2**

7 Failure to Timely File Pre-election Campaign Statement

8 33. Complainant incorporates paragraphs 1 – 32 of this Accusation, as though completely set
9 forth herein.

10 34. As a result of Shelley appearing on the ballot in the November 19, 2013 Special General
11 Election for the 45th Assembly District, Shelley and the 2013 Committee had a duty to file electronic and
12 paper versions of a pre-election campaign statement for the reporting period of September 1, 2013 through
13 October 5, 2013 on or before October 10, 2013.

14 35. Shelley and the 2013 Committee filed the pre-election statement for the September 1, 2013
15 through October 5, 2013 period in paper format on February 6, 2014 and electronically on October 21,
16 2013.

17 36. By failing to timely file this pre-election statement, Shelley and the 2013 Committee
18 violated sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

19 **Count 3**

20 Failure to Timely File Pre-election Campaign Statement

21 37. Complainant incorporates paragraphs 1 – 36 of this Accusation, as though completely set
22 forth herein.

23 38. As a result of Shelley appearing on the ballot in the November 19, 2013 Special General
24 Election for the 45th Assembly District, Shelley and the 2013 Committee had a duty to file electronic and
25 paper versions of a pre-election campaign statement for the reporting period of October 6, 2013 through
26 November 2, 2013 on or before November 7, 2013.

1 39. Shelley and the 2013 Committee filed the pre-election statement for the October 6, 2013
2 through November 2, 2013 period in paper format on February 6, 2014 and electronically on January 31,
3 2014, 2013.

4 40. By failing to timely file this pre-election statement, Shelley and the 2013 Committee
5 violated sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

6
7 Shelley and the 2014 Committee committed the following violations of the Act:

8 **Count 4**

9 Failure to Timely File a Pre-election Campaign Statement

10 41. Complainant incorporates paragraphs 1 – 40 of this Accusation, as though completely set
11 forth herein.

12 42. As a result of Shelley appearing on the ballot in the November 19, 2013 Special General
13 Election for the 45th Assembly District, Shelley and the 2014 Committee had a duty to file electronic and
14 paper versions of a pre-election campaign statement for the reporting period of September 1, 2013 through
15 October 5, 2013 on or before October 10, 2013.

16 43. Shelley and the 2014 Committee filed the pre-election statement for the September 1, 2013
17 through October 5, 2013 period in paper format on February 6, 2014 and electronically on October 21,
18 2013.

19 44. By failing to timely file this pre-election statement, Shelley and the 2014 Committee
20 violated sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

21 **Count 5**

22 Failure to Timely File a Pre-election Campaign Statement

23 45. Complainant incorporates paragraphs 1 – 44 of this Accusation, as though completely set
24 forth herein.

25 46. As a result of Shelley appearing on the ballot in the November 19, 2013 Special General
26 Election for the 45th Assembly District, Shelley and the 2014 Committee had a duty to file electronic and
27 paper versions of a pre-election campaign statement for the reporting period of October 6, 2013 through
28 November 2, 2013 on or before November 7, 2013.

1 47. Shelley and the 2014 Committee filed the pre-election statement for the October 6, 2013
2 through November 2, 2013 period in paper format on February 6, 2014 and electronically on January 31,
3 2014.

4 48. By failing to timely file this pre-election statement, Shelley and the 2014 Committee
5 violated sections 84200.5, subdivision (c) and 84200.8, subdivision (a).

6 **MITIGATING OR EXCULPATORY FACTORS**

7 49. The circumstances in this case where candidates had two committees open for the 45th
8 Assembly District were unique. The Enforcement Division has reduced the number of violations charged
9 in this case in light of any potential confusion that may have occurred due to the multiple committees.
10 Specifically, Shelley and the 2014 Committee are not charged for its first late campaign statement in the
11 event Shelley and the 2014 Committee were not aware prior to this filing of their obligation to file
12 campaign statements for the 2013 election. Further, the respondents have not been charged for any late
13 statements if the respondents filed either electronically or on paper within 10 days of the filing deadline
14 despite the requirement that committees and candidates file both paper and electronic statements timely.

15 **AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS**

16 50. Shelley had knowledge of her duty to file campaign statement on paper in addition to the
17 electronically filed statements, but continued to file paper statement several months late. And for the
18 preelection period immediately before the 2013 Special General election, Shelley and the 2013 and 2014
19 Committees did not file any campaign statements in any format, so no disclosure was available to the
20 public immediately before the Special General election.

21 **PRAYER**

22 WHEREFORE, Complainant prays as follows:

23 1. That the Commission hold a hearing pursuant to section 83116 and regulation 18361.5, and
24 at such hearing find that Shelley, the 2013 Committee, and the 2014 Committee violated the Act as alleged
25 herein;

26 2. That the Commission, pursuant to section 83116, subdivision (c), order Shelley and the
27 2013 Committee to pay a monetary penalty of up to \$5,000 for the violation of the Act alleged in

28 **Count 1;**

1 3. That the Commission, pursuant to section 83116, subdivision (c), order Shelley and the
2 2013 Committee to pay a monetary penalty of up to \$5,000 for the violation of the Act alleged in

3 **Count 2;**

4 4. That the Commission, pursuant to section 83116, subdivision (c), order Shelley and the
5 2013 Committee to pay a monetary penalty of up to \$5,000 for the violation of the Act alleged in

6 **Count 3;**

7 5. That the Commission, pursuant to section 83116, subdivision (c), order Shelley and the
8 2014 Committee to pay a monetary penalty of up to \$5,000 for the violation of the Act alleged in

9 **Count 4;**


10 6. That the Commission, pursuant to section 83116, subdivision (c), order Shelley and the
11 2014 Committee to pay a monetary penalty of up to \$5,000 for the violation of the Act alleged in

12 **Count 5;**

13 7. That the Commission, pursuant to regulation 18361.5, subdivision (d), consider the
14 following factors in framing a proposed order following a finding of a violation pursuant to section 83116:
15 (1) the seriousness of the violation; (2) the presence or absence of any intention to conceal, deceive or
16 mislead; (3) whether the violation was deliberate, negligent or inadvertent; (4) whether the violator
17 demonstrated good faith by consulting the Commission staff or any other government agency in a manner
18 not constituting a complete defense under section 83114(b); (5) whether the violation was isolated or part
19 of a pattern and whether the violator has a prior record of violations of the Act or similar laws; and (6)
20 whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full
21 disclosure;

22 8. That the Commission grant such other and further relief as it deems just and proper.

23
24 Dated: 27 July 18



Galena West
Chief of Enforcement
Fair Political Practices Commission



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street, Suite 3000 • Sacramento, CA 95811

STATEMENT TO RESPONDENTS

[Government Code Section 11505, subdivision (b)]

Susan Shelley, Shelley for Assembly 2013, and Shelley for Assembly 2014
FPPC Case No. 15/003

Enclosed is an Accusation, which was filed with the Fair Political Practices Commission (the “FPPC”) and which is hereby served upon you, along with two copies of a Notice of Defense and Government Code Sections 11506 through 11508.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the FPPC within 15 days after the Accusation was served on you, the FPPC may proceed upon the Accusation without a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or mailing a notice of defense as provided by Section 11506 of the Government Code to the Commission Assistant at the FPPC.

You may, but need not, be represented by counsel at any or all stages of these proceedings.

If you desire a list of the names and addresses of witnesses against you, or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code that are in the possession, custody, or control of this agency, or if you wish to discuss the possibility of resolving this matter without a formal hearing, you may contact Dave Bainbridge, Assistant Chief, FPPC Enforcement Division.

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the FPPC or, if an administrative law judge has been assigned to the hearing, the Office of Administrative Hearings, within 10 working days after you discover the good cause. Failure to give notice within 10 days will deprive you of a postponement.

After a hearing, the FPPC will consider the following factors in determining whether to assess a penalty (Title 2, California Code of Regulations, Section 18361.5, subdivision (d).):

1. The seriousness of the violation;
2. The presence or absence of any intention to conceal, deceive, or mislead;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the violator demonstrated good faith by consulting Commission staff or any other government agency in a manner not constituting a complete defense under Government Code Section 83114, subdivision (b);
5. Whether the violation was isolated or part of a pattern;
6. Whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
7. Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.



Before the Fair Political Practices Commission

State of California

In the Matter of

SUSAN G. SHELLEY, SUSAN
SHELLEY FOR ASSEMBLY 2013 and
SUSAN SHELLEY FOR ASSEMBLY
2014,,

Respondents.

) NOTICE OF DEFENSE
) (Pursuant to Gov. Code § 11506)
)
) FPPC Case No. 15/003
)
)
)
)

SUSAN SHELLEY, a Respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

GROUND FOR NOTICE OF DEFENSE

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
 - a) I admit the Accusation in whole.
 - b) I admit the Accusation in part as indicated below:

- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: _____

Respondent

Print Name

Mailing Address

City, State, Zip



Before the Fair Political Practices Commission

State of California

In the Matter of

SUSAN G. SHELLEY, SUSAN
SHELLEY FOR ASSEMBLY 2013 and
SUSAN SHELLEY FOR ASSEMBLY
2014,,

Respondents.

) NOTICE OF DEFENSE
) (Pursuant to Gov. Code § 11506)
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) FPPC Case No. 15/003
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SUSAN SHELLEY, a Respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

GROUND FOR NOTICE OF DEFENSE

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
 - a) I admit the Accusation in whole.
 - b) I admit the Accusation in part as indicated below:

- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: _____

Respondent

Print Name

Mailing Address

City, State, Zip

California Government Code sections 11506 through 11508

§ 11506. Filing of notice of defense or notice of participation; Contents; Right to hearing on the merits

(a) Within 15 days after service of the accusation or District Statement of Reduction in Force the respondent may file with the agency a notice of defense, or, as applicable, notice of participation, in which the respondent may:

(1) Request a hearing.

(2) Object to the accusation or District Statement of Reduction in Force upon the ground that it does not state acts or omissions upon which the agency may proceed.

(3) Object to the form of the accusation or District Statement of Reduction in Force on the ground that it is so indefinite or uncertain that the respondent cannot identify the transaction or prepare a defense.

(4) Admit the accusation or District Statement of Reduction in Force in whole or in part.

(5) Present new matter by way of defense.

(6) Object to the accusation or District Statement of Reduction in Force upon the ground that, under the circumstances, compliance with the requirements of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights.

(b) Within the time specified the respondent may file one or more notices of defense, or, as applicable, notices of participation, upon any or all of these grounds but all of these notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense or notice of participation, and the notice shall be deemed a specific denial of all parts of the accusation or District Statement of Reduction in Force not expressly admitted. Failure to file a notice of defense or notice of participation shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation or District Statement of Reduction in Force shall be deemed waived.

(d) The notice of defense or notice of participation shall be in writing signed by or on behalf of the respondent and shall state the respondent's mailing address. It need not be verified or follow any particular form.

(e) As used in this section, "file," "files," "filed," or "filing" means "delivered or mailed" to the agency as provided in Section 11505.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 1963 ch 931 § 1; Stats 1982 ch 606 § 1; Stats 1986 ch 951 § 20; Stats 1995 ch 938 § 29 (SB 523), operative July 1, 1997; Stats 2013 ch 90 § 5 (SB 546), effective January 1, 2014.

§ 11507. Amended or supplemental accusation or District Statement of Reduction in Force; Objections

At any time before the matter is submitted for decision, the agency may file, or permit the filing of, an amended or supplemental accusation or District Statement of Reduction in Force. All parties shall be notified of the filing. If the amended or supplemental accusation or District Statement of Reduction in Force presents new charges, the agency shall afford the respondent a reasonable opportunity to prepare his or her defense to the new charges, but he or she shall not be entitled to file a further pleading unless the agency in its discretion so orders. Any new charges shall be deemed controverted, and any objections to the amended or supplemental accusation or District Statement of Reduction in Force may be made orally and shall be noted in the record.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 2013 ch 90 § 6 (SB 546), effective January 1, 2014; Stats 2014 ch 71 § 69 (SB 1304), effective January 1, 2015.

§ 11507.3. Consolidated proceedings; Separate hearings

(a) When proceedings that involve a common question of law or fact are pending, the administrative law judge on the judge's own motion or on motion of a party may order a joint hearing of any or all the matters at issue in the proceedings. The administrative law judge may order all the proceedings consolidated and may make orders concerning the procedure that may tend to avoid unnecessary costs or delay.

(b) The administrative law judge on the judge's own motion or on motion of a party, in furtherance of convenience or to avoid prejudice or when separate hearings will be conducive to expedition and economy, may order a separate hearing of any issue, including an issue raised in the notice of defense or notice of participation, or of any number of issues.

HISTORY: Added Stats 1995 ch 938 § 30 (SB 523), operative July 1, 1997. Amended Stats 2013 ch 90 § 7 (SB 546), effective January 1, 2014.

///

§ 11507.5. Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

HISTORY: Added Stats 1968 ch 808 § 3.

§ 11507.6. Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

HISTORY: Added Stats 1968 ch 808 § 4. Amended Stats 1985 ch 1328 § 5; Stats 1995 ch 938 § 31 (SB 523), operative July 1, 1997.

§ 11507.7. Motion to compel discovery; Order

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of *Section 915 of the Evidence Code* and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become

effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

HISTORY: Added Stats 1968 ch 808 § 5. Amended Stats 1971 ch 1303 § 8; Stats 1980 ch 548 § 2; Stats 1995 ch 938 § 32 (SB 523), operative July 1, 1997.

§ 11508. Time and place of hearing

(a) The agency shall consult the office, and subject to the availability of its staff, shall determine the time and place of the hearing. The hearing shall be held at a hearing facility maintained by the office in Sacramento, Oakland, Los Angeles, or San Diego and shall be held at the facility that is closest to the location where the transaction occurred or the respondent resides.

(b) Notwithstanding subdivision (a), the hearing may be held at either of the following places:

(1) A place selected by the agency that is closer to the location where the transaction occurred or the respondent resides.

(2) A place within the state selected by agreement of the parties.

(c) The respondent may move for, and the administrative law judge has discretion to grant or deny, a change in the place of the hearing. A motion for a change in the place of the hearing shall be made within 10 days after service of the notice of hearing on the respondent.

Unless good cause is identified in writing by the administrative law judge, hearings shall be held in a facility maintained by the office.

HISTORY: Added Stats 1945 ch 867 § 1. Amended Stats 1963 ch 710 § 1; Stats 1967 ch 17 § 39; Stats 1987 ch 50 § 1; Stats 1995 ch 938 § 33 (SB 523), operative July 1, 1997; Stats 2005 ch 674 § 22 (SB 231), effective January 1, 2006.