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Enforcement Division of the Fair Political Practices Commission
7

8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**
10

11 In the Matter of) OAH No. 2019030096
12) FPPC No. 15/003
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SUSAN G. SHELLEY, SUSAN
SHELLEY FOR ASSEMBLY 2013, and
SUSAN SHELLEY FOR ASSEMBLY
2014,

Respondents.

COMPLAINANT'S OPENING BRIEF IN
SUPPORT OF THE PROPOSED DECISION

Hearing Judge: Deena R. Ghaly
Hearing Date: **June 19, 2019**
Hearing Time: 9:00 a.m.
Hearing Place: 320 W. Fourth Street, Suite 630
Los Angeles, CA 90013

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, submits this
19 brief pursuant to Government Code section 83116 and title 2, California Code of Regulations sections
20 18361.5 and 18561.9.¹ The proposed decision of Administrative Law Judge Deena R. Ghaly, dated August
21 9, 2019, states findings of fact that are supported by and consistent with the evidence presented at the
22 hearing in this matter on June 19, 2019, in Los Angeles, California. The proposed decision also contains
23 an accurate statement and application of the law pertinent to this mater.

24 There is no additional material evidence, which could, with reasonable diligence, have been
25 discovered and presented at the administrative hearing.

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

1 The purpose of this brief is to provide Enforcement Division's recommendation regarding this
2 proposed decision pursuant to Regulation 18361.9(b)(1)(D). Regulation 18361.9 refers to Government
3 Code section 11517 for the possible actions the Commission can take regarding this proposed decision
4 from the Administrative Law Judge after a full hearing on this matter. Enforcement Division's
5 recommendation is that the Commission adopt the proposed decision and penalty but also make technical
6 and minor changes in the proposed decision (Gov. Code section 11517(c)(2)(C)). Enforcement Division
7 is making this recommendation because the decision contains factual findings that are supported by
8 evidence presented at the hearing, the law is properly stated and applied, and no additional material
9 evidence could have been discovered, using reasonable diligence, and presented at the administrative
10 hearing.

11 The Enforcement Division recommends the following technical and minor changes to the proposed
12 decision since the agency may make clarifying changes or a change of a similar nature so long as the
13 change does not affect the factual or legal basis of the proposed decision:

- 14 1. On page 7, paragraph 8, there is a reference to a Government Code that has a typographical
15 error. Amend as follows: "(Gov. Code §§ 82400.5, subd. (c) (amended in 2016) and 84200.8,
16 subd. (a) and (b).)"
- 17 2. On page 12, paragraph 18, there is a misstatement of fact and omission of a reference to an
18 exhibit. Amend as follows: "Its auditors found that Respondents Shelley and the 2013
19 Committee had not substantially complied with the PRA's disclosure and record-keeping
20 requirements and found that Shelley and the 2014 Committee had substantially complied with
21 the PRA's disclosure and record-keeping requirements but also noted findings of non-filings,
22 late filings, and failure to attribute certain contributions to their contributors by the 2013
23 Committee, and of non-filings and late filings by the 2014 Committee. (See, Exh. 16 and 17.)
- 24 3. On page 17, first paragraph, there is a sentence fragment. Amend as follows: "There was no
25 evidence admitted that the Respondents committed the violations with an intent to conceal,
26 deceive or mislead."

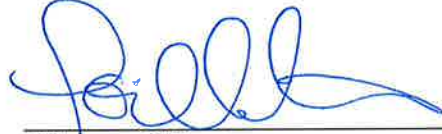
1 Additionally, the proposed total administrative penalty of \$12,500 for the five proven violations
2 of the Political Reform Act is appropriate in this matter because it takes into consideration all of the factors
3 to be considered in framing a proposed decision² and correctly points out that the Enforcement Division
4 had already taken into consideration the mitigation presented when choosing not to pursue all violations
5 available for prosecution.

6 Thus, the Enforcement Division respectfully requests that the Commission make technical and
7 minor changes in the proposed decision and adopt it as the decision.

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9 Dated: Aug 28, 2019

FAIR POLITICAL PRACTICES COMMISSION

By: Galena West
Chief of Enforcement



Theresa Gilbertson
Commission Counsel

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² Reg. 18361.5, subdivision (d).