



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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**To:** Chair Miadich, Commissioners Baker, Cardenas, Wilson, and Wood

**From:** Galena West, Executive Director  
Angela Brereton, Chief of Enforcement  
Jenna Rinehart, Commission Counsel

**Date:** April 5, 2021

**RE:** Assignment of Hearing to Administrative Law Judge

**Case Name:** Long Beach Families Against Measure A and Franklin I. Sims; FPPC Case No. 16/773

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## **I. INTRODUCTION**

Respondent, Long Beach Families Against Measure A (the “Committee”), is a ballot measure committee primarily formed to oppose Long Beach city ballot measure, Measure A, which passed in the June 7, 2016 Primary Election. Respondent, Franklin I. Sims (“Sims”), served as the treasurer for the Committee.

The Committee and Sims violated the Political Reform Act (the “Act”)<sup>1</sup> by failing to timely file a statement of organization with the Secretary of State, failing to timely file a pre-election campaign statement, failing to timely file a 24-hour contribution report, failing to timely file a semi-annual campaign statement, failing to report contribution/vendor information, failing to include a proper disclosure on campaign website, and failing to include a proper disclosure on magazine advertisements, as detailed in the Accusation attached to this memorandum. Sims filed a Notice of Defense in response to the Accusation and requested an administrative hearing.

## **II. COMMISSION ACTION ONLY REQUIRED IF THE COMMISSION DESIRES TO PARTICIPATE IN THE ADMINISTRATIVE HEARING**

The Executive Director and the Chief of Enforcement are recommending an administrative law judge (“ALJ”) conduct the hearing pursuant to Government Code Section 11512, subdivision (a). The ALJ will then make a recommendation to the Commission on the findings of fact, law and penalty, if applicable, in the matter. The Commission will then make the final determination on the case.

This memorandum is submitted to each member of the Commission pursuant to California Code of Regulation Section 18361.5, subdivision (b), which provides:

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

If the Enforcement Division determines that a hearing on the merits should be conducted before an administrative law judge alone pursuant to Government Code section 11512(a), the Enforcement Division shall provide a copy of the accusation as well as a memorandum describing the issues involved to each member of the Commission. If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an administrative law judge is available. All Commissioners are eligible to participate in the hearing, regardless of whether they voted to hear the matter themselves or not.

Thus, no Commission action is required if the Commission approves the recommendation that the administrative hearing in this matter should be conducted before an ALJ. However, two or more Commissioners may vote to keep the matter with the Commission if so desired.

### **III. PROCEDURAL HISTORY**

The Enforcement Division initiated this administrative action against the Committee and Sims in this matter by serving them a Report in Support of a Finding of Probable Cause (“PC Report”) on or about October 24, 2019. The Committee and Sims did not file a response to the PC Report or request a probable cause conference.

By means of an Ex Parte Request for a Finding of Probable Cause and on Order that an Accusation be Prepared and Served, dated November 18, 2019, the Enforcement Division submitted the matter to the Hearing Officer for a determination of probable cause. On or about November 19, 2019, the Hearing Officer issued an order finding that there was probable cause to believe the Committee and Sims violated the Act, as alleged in the PC Report, and directed the Enforcement Division to issue an accusation against the Committee and Sims in accordance with the finding.

On November 9, 2020, the Commission’s Chief of Enforcement Angela Brereton issued an Accusation against the Committee and Sims. Sims submitted a signed Notice of Defense, dated November 15, 2020, requesting an administrative hearing on this matter.

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### **IV. HEARING OPTIONS**

Every hearing in a contested case must be presided over by an ALJ. The agency itself shall determine whether the ALJ is to hear the case alone or whether the agency itself is to hear the case with the ALJ.<sup>2</sup>

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<sup>2</sup> See Gov’t Code § 11512, subd. (a).

When the agency itself hears the case, the ALJ shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the ALJ. When the ALJ hears a case, he or she shall exercise all powers relating to the conduct of the hearing. A rule of the ALJ admitting or excluding evidence is subject to review in the same manner and to the same extent as the ALJ's proposed decision in the proceeding.<sup>3</sup>

## **V. SUMMARY OF THE ACCUSATION**

The Accusation alleges the Respondents violated the Political Reform Act as follows:

### Count 1: Failure to Timely File Statement of Organization with Secretary of State

The Committee and Sims failed to timely file a statement of organization with the Secretary of State within 10 days of qualifying as a committee or by the May 26, 2016 due date, in violation of Government Code Section 84101.

### Count 2: Failure to Timely File Pre-Election Campaign Statement

The Committee and Sims failed to timely file a pre-election campaign statement for the reporting period of January 1, 2016 to May 21, 2016, by the May 26, 2016 due date, in violation of Government Code Sections 84200.5 and 84200.8.

### Count 3: Failure to Timely File 24-Hour Contribution Report

The Committee and Sims failed to timely file a 24-hour contribution report for a \$9,150 contribution received on May 17, 2016, by the May 18, 2016 due date, in violation of Government Code Section 84203.

### Count 4: Failure to Timely File Semi-Annual Campaign Statement

The Committee and Sims failed to timely file a semi-annual campaign statement for the reporting period of May 22, 2016 to June 30, 2016, by the August 1, 2016 due date, in violation of Government Code Section 84200.

### Count 5: Failure to Report Contribution/Vendor Information

The Committee and Sims failed to report certain contributor information for approximately \$9,850 in contributions received, or approximately 78% of the Committee's total contributions, and vendor information for approximately \$2,500 of expenditures, or approximately 20% of the Committee's total expenditures, for the reporting periods occurring between January 1, 2016 to June 1, 2016, in violation of Government Code Section 84211.

### Count 6: Failure to Include Proper Disclosures on Campaign Website

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<sup>3</sup> See Gov't Code § 11512, subd. (b).

In or around May 2016, the Committee and Sims failed to include the proper disclosure on its campaign website, in violation of Government Code Section 84506 and Regulation 18450.4, subdivision (b)(1).

Count 7: Failure to Include Proper Disclosures on Magazine Advertisements

In or around May 2016, the Committee and Sims failed to include the proper disclosure on its magazine advertisement, in violation of Government Code Section 84506 and Regulation 18450.4, subdivision (b)(3).

**VI. CONCLUSION**

If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, likely to take place in Los Angeles, the matter will be scheduled for a hearing before the Commission when an ALJ is available.<sup>4</sup> Otherwise, hearing of this matter will be conducted before an ALJ alone pursuant to Government Code Section 11512, subdivision (a).

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<sup>4</sup> Reg. § 18361.5, subd. (b).

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

11 In the Matter of ) FPPC No. 16/773  
12 )  
13 )  
14 ) **ACCUSATION**  
15 )  
16 ) (Gov. Code §11503)  
17 ) Respondents. )  
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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 (the  
22 “Commission”) and 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.

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1 3. When enacting the Political Reform Act (the “Act”),<sup>1</sup> California voters specifically found  
2 and declared that previous laws regulating political practices had suffered from inadequate enforcement,  
3 and it was their purpose to ensure that the Act be vigorously enforced.<sup>2</sup>

4 4. To that end, Section 81003 requires that the Act be liberally construed to achieve its  
5 purposes.

6 5. One of the stated purposes of the Act is to ensure voters are fully informed and improper  
7 practices are inhibited by requiring all campaign committees to disclose all contributions and expenditures  
8 made throughout a campaign.<sup>3</sup>

9 **RESPONDENTS**

10 6. Respondent, Long Beach Families Against Measure A (the “Committee”), is a primarily  
11 formed local ballot measure committee formed to oppose the Long Beach city ballot measure, Measure  
12 A, which passed in the June 7, 2016 Primary Election.

13 7. Respondent, Franklin I. Sims (“Sims”), served as the treasurer for, and is responsible for  
14 organizing the Committee.

15 **APPLICABLE LAW**

16 8. All applicable law in this Accusation is the law as it existed during the relevant time for  
17 the violations alleged.

18 **A. Committee**

19 9. Under the Act, “committee” means any person or combination of persons who directly or  
20 indirectly receives contributions totaling \$2,000 or more in a calendar year.<sup>4</sup> This type of committee is  
21 referred to as a recipient committee.

22 10. “Primarily formed committee” means a recipient committee which is formed or exists  
23 primarily to support or oppose a single measure.<sup>5</sup>

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26 <sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. The regulations of the  
Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of  
Regulations.

27 <sup>2</sup> Sections 81001, subdivision (h), and 81002, subdivision (f).

28 <sup>3</sup> Section 81002, subdivision (a).

<sup>4</sup> Section 82013, subdivision (a).

<sup>5</sup> Section 82047.5, subdivision (b).

1 **B. Duty to File Statement of Organization**

2 11. A recipient committee shall file the original of the statement of organization with the  
3 Secretary of State (“SOS”) and shall also file a copy of the statement of organization with the local filing  
4 officer.<sup>6</sup> The original and copy of the statement of organization shall be filed within 10 days after the  
5 committee has qualified as a committee.<sup>7</sup> A committee shall use only one name on its statement of  
6 organization and whenever identification of a committee is required by law; the identification shall include  
7 the full name of the committee as required in the statement of organization.<sup>8</sup>

8 **C. Duty to File Campaign Statements**

9 12. The Act requires a recipient committee to a file semi-annual campaign statement by  
10 January 31 for the period ending December 31, and by July 31 for the period ending June 30, or the next  
11 business day if the deadline falls on a weekend or holiday.<sup>9</sup>

12 13. In addition to semi-annual campaign statements, the Act requires all committees primarily  
13 formed to support or oppose a measure appearing on the ballot to be voted on at the next election to file  
14 pre-election campaign statements as follows: (1) for the period ending 45 days before the election, the  
15 statement shall be filed no later than 40 days before the election, and (2) for the period ending 17 days  
16 before the election the statement shall be filed no later than 12 days before the election.<sup>10</sup>

17 14. “Period covered” by a campaign statement means the period beginning the day after the  
18 closing date of the most recent campaign statement which was required to be filed and ending with the  
19 closing date of the statement in question.<sup>11</sup> If a person has not previously filed a campaign statement within  
20 the calendar year, the period covered begins on January 1.<sup>12</sup>

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25 <sup>6</sup> Section 84101.

26 <sup>7</sup> *Id.*

27 <sup>8</sup> Regulation 18402, subdivision (a) and (c).

28 <sup>9</sup> Section 84200, subdivision (a) and Regulation 18116, subdivision (a).

<sup>10</sup> Section 84200.5, subdivision (a), and 84200.8.

<sup>11</sup> Section 82046, subdivision (b).

<sup>12</sup> *Id.*

1 **D. 24-Hour Contribution Reports**

2 15. A “late contribution” means a contribution that totals in the aggregate \$1,000 or more and  
3 is made to or received by a committee formed primarily to oppose a measure during the 90-day period  
4 preceding the date of the election at which the measure is to be voted on.<sup>13</sup> Each committee that receives  
5 a late contribution shall report the late contribution within 24 hours of the time it is received.<sup>14</sup>

6 **E. Campaign Reporting**

7 16. For each campaign statement where the cumulative amount of contributions received from  
8 a person is \$100 or more the contributions must be itemized separately and the following information shall  
9 be reported for each contributor: full name, street address, occupation, name of employer, date and amount  
10 received for each contribution, and the cumulative amount of contributions.<sup>15</sup> If the contributor is a  
11 committee, the number assigned to the committee by the SOS shall be listed, or if no number has been  
12 assigned, the full name and street address of the treasurer shall be listed.<sup>16</sup>

13 17. For each person to whom an expenditure of \$100 or more has been made during the period  
14 covered by the campaign statement, the campaign statement shall contain all of the following: (1) full  
15 name, (2) street address, (3) amount of each expenditure, and (4) brief description of the consideration for  
16 which each expenditure was made.<sup>17</sup>

17 **F. Duty to Include Disclosure Statement on Advertisements**

18 18. Under the Act, an “advertisement” means any general or public advertisement which is  
19 authorized and paid for by a person or committee for the purpose of supporting or opposing a ballot  
20 measure.<sup>18</sup>

21 19. An advertisement opposing a ballot measure shall include a disclosure statement that  
22 identifies the name of the committee making the independent expenditure.<sup>19</sup> Disclosures shall include  
23 “paid for by” in the same manner as, and immediately adjacent to and above, or immediately adjacent to

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25 <sup>13</sup> Section 82036, subdivision (a).

26 <sup>14</sup> Section 84203, subdivision (a).

27 <sup>15</sup> Section 84211, subdivision (f).

28 <sup>16</sup> Section 84211, subdivision (m).

<sup>17</sup> Section 84211, subdivision (k).

<sup>18</sup> Section 84501, subdivision (a).

<sup>19</sup> Section 84506, subdivision (a).



1 and in front of, the required identification.<sup>20</sup> Any disclosures shall be presented in a clear and conspicuous  
2 manner to give the reader adequate notice of the identity of the committee that paid for the  
3 communication.<sup>21</sup>

4 **G. Factors to be Considered by the Fair Political Practices Commission**

5 20. In framing a proposed order following a finding of a violation pursuant to Section 83116,  
6 the Commission and the administrative law judge shall consider all the surrounding circumstances  
7 including but not limited to: (a) The seriousness of the violation; (b) The presence or absence of any  
8 intention to conceal, deceive or mislead; (c) Whether the violation was deliberate, negligent or inadvertent;  
9 (d) Whether the violator demonstrated good faith by consulting the Commission staff or any other  
10 government agency in a manner not constituting a complete defense under Section 83114(b); (e) Whether  
11 the violation was isolated or part of a pattern and whether the violator has a prior record of violations of  
12 the Act or similar laws; and (f) Whether the violator, upon learning of a reporting violation, voluntarily  
13 filed amendments to provide full disclosure.<sup>22</sup>

14 **GENERAL FACTS**

15 21. The Committee and Sims were unsuccessful in its campaign to oppose a Long Beach city  
16 ballot measure, Measure A, which passed in the June 7, 2016, Primary Election.

17 **Failure to Timely File Statement of Organization with the SOS**

18 22. According to the local filing officer, City of Long Beach, on May 20, 2016, Sims filed a  
19 statement of organization with the City of Long Beach. This statement reported the Committee qualified  
20 as a recipient committee on May 16, 2016.

21 23. According to the SOS, the Committee and Sims were required to file the statement of  
22 organization with the SOS but failed to do so.

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28 <sup>20</sup> Regulation 18450.4, subdivision (b)(1).

<sup>21</sup> Regulation 18450.4, subdivision (b)(3).

<sup>22</sup> Regulation 18361.5, subd. (d).

1 **Failure to Timely File Pre-Election Campaign Statement**

2 24. By May 26, 2016, the Committee and Sims were required to file a pre-election campaign  
3 statement for the reporting period of January 1, 2016 through May 21, 2016.

4 25. According to the City of Long Beach, on June 3, 2016, the Committee filed a pre-election  
5 campaign statement, with a reporting period of January 1, 2016 through June 1, 2016. The statement  
6 reported \$12,500 in contributions and expenditures.

7 **Failure to Timely File 24-Hour Contribution Report**

8 26. The 90-day period preceding the June 7, 2016, Primary Election, began on March 9, 2016  
9 and ended on June 7, 2016.

10 27. On the pre-election campaign statement filed on June 3, 2016, the Committee and Sims  
11 reported receiving a \$9,150 late contribution from the Passinisi Family on May 17, 2016. This late  
12 contribution amounted to approximately 73% of the total contributions received by the Committee.

13 28. The Committee and Sims were required to file a 24-hour contribution report for the late  
14 contribution received on May 17, 2016 by the May 18, 2016 due date but the City of Long Beach has no  
15 record the report was filed.

16 **Failure to timely File Semi-Annual Campaign Statement**

17 29. By August 1, 2016, the Committee and Sims were required to file a semi-annual campaign  
18 statement, for the reporting period of May 22, 2016 to June 30, 2016, but the City of Long Beach has no  
19 record the statement was filed.

20 **Failure to Report Contributor/Vendor Information**

21 30. The Committee and Sims failed to report required contributor and vendor information on  
22 the pre-election campaign statement filed on June 3, 2016.

23 31. The missing contributor information included a Committee's ID number, full names,  
24 occupations and employers and amounted to approximately 78% of the Committee's total contributions  
25 received.

26 32. The missing vendor information included a street address and amounted to approximately  
27 20% of the Committee's total expenditures.

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33. The missing contributor and vendor information is as follows:

Date	Name	Missing Information	Type	Amount
04/27/2016	Andy Whallon for Congress	Committee ID	Contributor	\$500
05/13/2016	A. Zion & C.C. Zion	Full Name, Occupation and Name of Employer	Contributor	\$100
05/17/2016	Passinisi Family	Full Name, Occupation, and Name of Employer	Contributor	\$9,150
05/25/2016	Terry & Patsy Tracy	Occupation and Name of Employer	Contributor	\$100
N/A	Facebook	Street Address	Vendor	\$2,500

### Failure to Include Required Disclosures on Political Advertisements

34. As reported on the Committee's pre-election campaign statement, the Committee made the following expenditures on political advertisements:

Vendor Name	Description	Amount
Facebook	Facebook Ads	\$2,500
INPUT Movement	Animation, voiceover & video production	\$2,000
Long Beach Business Journal	Full-length Ad	\$1,850

35. The Committee and Sims were required to include a disclosure statement on each of its advertisements to identify the Committee as the source of the advertisement but failed to do so.

36. The Committee's website is no longer active, however, evidence obtained during the investigation shows there were no disclosure statements included on the website. The website included an emblem for Long Beach Rebellion, a link to directly email LongBeachRebellion@gmail.com, and a © 2016 by Long Beach Rebellion. The disclosure statement for the website should have read "Paid for by Long Beach Families Against Measure A."

37. The evidence shows the full-length advertisement that appeared in the Long Beach Business Journal did not provide a disclosure statement. But instead stated, "Vote No on Measure A, Stop 10% Sales Tax" and the Committee's website address, "LongBeachRebellion.com." The disclosure statement required for the Long Beach Business Journal advertisement should have read "Paid for by Long Beach Families Against Measure A."

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1 **PROCEDURAL HISTORY**

2 38. Between August 6, 2019 and September 3, 2019, the Enforcement Division contacted the  
3 Committee and Sims twice via U.S. Mail, six times via email, and followed up with phone calls on five  
4 different occasions, regarding the Committee’s outstanding campaign statements.

5 39. The Enforcement Division initiated an administrative action against the Committee and  
6 Sims in this matter by serving them with a packet containing a cover letter, a Report in Support of a  
7 Finding of Probable Cause (“PC Report”), a fact sheet regarding probable cause proceedings, selected  
8 sections of the Government Code regarding probable cause proceedings for the Commission, and selected  
9 regulations of the Commission regarding probable cause proceedings.

10 40. The Committee and Sims were served with the PC Report on October 24, 2019. The  
11 information contained in the PC Report packet advised the Committee and Sims that they had 21 days in  
12 which to request a probable cause conference, file a written response to the PC Report, or both. During  
13 the 21 days that followed service of the PC Report, the Committee and Sims did not file a response to the  
14 PC Report or request a probable cause conference.

15 41. By means of an Ex Parte Request for a Finding of Probable Cause and an Order that an  
16 Accusation Be Prepared and Served (“Ex Parte Request”), dated November 18, 2019, the Enforcement  
17 Division submitted the matter to the Hearing Officer for a determination of probable cause.

18 42. On or about November 19, 2019, the Hearing Officer issued an order finding, based on the  
19 Ex Parte Request and the PC Report, that there was probable cause to believe the Committee and Sims  
20 violated the Act and directed the Enforcement Division to issue an Accusation against the Committee and  
21 Sims in accordance with the finding.

22 43. To date, the Committee and Sims have failed to file a statement of organization with the  
23 SOS, a 24-hour contribution report, and a semi-annual campaign statement for the reporting period of  
24 May 22, 2016 to June 30, 2016.

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1 **VIOLATIONS**

2 44. The Committee and Sims committed seven violations of the Act as follows:

3 **Count 1**

4 **Failure to Timely File Statement of Organization with SOS**

5 45. Complainant incorporates paragraphs 1 – 44 of this Accusation, as though completely set  
6 forth here.

7 46. As a combination of persons who directly received contributions totaling \$2,000 or more  
8 in a calendar year, the Committee and Sims had a duty to timely file a statement of organization with the  
9 SOS within 10 days of qualifying as a committee. The Committee qualified as a committee on or around  
10 May 16, 2016.

11 47. The Committee and Sims failed to timely file the statement of organization with the SOS  
12 by the May 26, 2016 due date.

13 48. By failing to timely file, the statement of organization with the SOS by the May 26, 2016  
14 due date, the Committee and Sims violated Government Code Section 84101.

15 **Count 2**

16 **Failure to Timely File Pre-Election Campaign Statement**

17 49. Complainant incorporates paragraphs 1 – 48 of this Accusation, as though completely set  
18 forth here.

19 50. As a primarily formed committee and its treasurer, the Committee and Sims had a duty to  
20 timely file a pre-election campaign statement for the reporting period of January 1, 2016 through May 21,  
21 2016, by the May 26, 2016 due date.

22 51. The Committee and Sims failed to timely file the pre-election campaign statement for the  
23 reporting period of January 1, 2016 through May 21, 2016, by the May 26, 2016 due date.

24 52. By failing to timely file, the pre-election campaign statement by May 26, 2016, the  
25 Committee and Sims violated Government Code Sections 84200.5 and 84200.8.

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1 **Count 3**

2 **Failure to Timely File a 24-Hour Contribution Report**

3 53. Complainant incorporates paragraphs 1 – 52 of this Accusation, as though completely set  
4 forth here.

5 54. As a primarily formed committee and its treasurer, the Committee and Sims had a duty to  
6 timely file 24-hour contribution reports within 24 hours of receiving a late contribution.

7 55. The Committee and Sims failed to timely file a 24-hour contribution report for a \$9,150  
8 contribution received on May 17, 2016, by the May 18, 2016 due date.

9 56. By failing to timely file, a 24-hour contribution report by the May 18, 2016 due date, the  
10 Committee and Sims violated Government Code Section 84203.

11 **Count 4**

12 **Failure to Timely File a Semi-Annual Campaign Statement**

13 57. Complainant incorporates paragraphs 1 – 56 of this Accusation, as though completely set  
14 forth here.

15 58. As a primarily formed committee and its treasurer, the Committee and Sims had a duty to  
16 timely file a semi-annual campaign statement for the reporting period of May 22, 2016 through June 30,  
17 2016, by the August 1, 2016 due date.

18 59. The Committee and Sims failed to timely file the semi-annual campaign statement for the  
19 reporting period of May 22, 2016 through June 30, 2016, by the August 1, 2016 due date.

20 60. By failing to timely file, the semi-annual campaign statement by the August 1, 2016 due  
21 date, the Committee and Sims violated Government Code Section 84200.

22 **Count 5**

23 **Failure to Report Contribution/Vendor Information**

24 61. Complainant incorporates paragraphs 1 – 60 of this Accusation, as though completely set  
25 forth here.

26 62. As a primarily formed committee and its treasurer, the Committee and Sims had a duty to  
27 report certain contributor and vendor information on each of its campaign statements.

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1 63. Between April 27, 2016 and May 25, 2016, the Committee and Sims failed to report certain  
2 contributor information for approximately \$9,850 in contributions received, or approximately 78% of the  
3 Committee's total contributions.

4 64. In or around May 2016, the Committee and Sims failed to report certain vendor information  
5 for approximately \$2,500 of expenditures, or approximately 20% of the Committee's total expenditures.

6 65. By failing to report certain contributor and vendor information, the Committee and Sims  
7 violated Government Code Section 84211, subdivisions (f), (m), and (k).

8 **Count 6**

9 **Failure to Include Proper Disclosures on Campaign Website**

10 66. Complainant incorporates paragraphs 1 – 65 of this Accusation, as though completely set  
11 forth here.

12 67. As a primarily formed committee and its treasurer, the Committee and Sims had a duty to  
13 include the proper disclosure on its campaign website.

14 68. In or around May 2016, the Committee and Sims failed to include the proper disclosure on  
15 its campaign website.

16 69. By failing to include the proper disclosure on its campaign website, the Committee and  
17 Sims violated Government Code Section 84506 and Regulation 18450.4, subdivision (b)(1).

18 **Count 7**

19 **Failure to Include Proper Disclosures on Magazine Advertisements**

20 70. Complainant incorporates paragraphs 1 – 69 of this Accusation, as though completely set  
21 forth here.

22 71. As a primarily formed committee and its treasurer, the Committee and Sims had a duty to  
23 include the proper disclosure on its magazine advertisement.

24 72. In or around May 2016, the Committee and Sims failed to include the proper disclosure on  
25 its magazine advertisement.

26 73. By failing to include the proper disclosure on its magazine advertisement, the Committee  
27 and Sims violated Government Code Section 84506 and Regulation 18450.4, subdivision (b)(3).

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1 **MITIGATING OR EXCULPATORY FACTORS**

2 74. The Committee and Sims filed the statement of organization with the local filing officer.

3 75. Although the Committee and Sims failed to timely file a 24-hour contribution report, the  
4 contribution was reported on the Committee's pre-election campaign statement filed prior to the election.

5 76. The Committee and Sims filed the pre-election campaign statement prior to the election  
6 reporting the Committee's campaign activity to date.

7 77. The Committee's advertisements included the Committee's website address for  
8 identification purposes.

9 78. Sims admits he was not sophisticated with the Act and this was the first-time Sims  
10 participated in a campaign.

11 79. The Committee and Sims have no prior history of violating the Act.

12 **AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS**

13 80. The public harm inherent in campaign reporting violations is that the public is deprived of  
14 important, time-sensitive information regarding campaign activity. The public harm is mitigated if some  
15 of the reportable activity was disclosed, prior to the election.

16 81. The Committee's and Sims' campaign reporting violations are somewhat mitigated  
17 because a pre-election campaign statement was filed prior to the election and reported the Committee's  
18 campaign activity. However, this statement was filed eight days late and only four days prior to the  
19 election and failed to report required contributor and vendor information.

20 82. The Committee and Sims have ignored the Enforcement Division's requests to file  
21 outstanding campaign statements. Between August 6, 2019 and September 3, 2019, the Enforcement  
22 Division has sent letters twice via mail, six times via email, and followed up with phone calls on five  
23 different occasions.

24 83. To date, the Committee and Sims have failed to file a statement of organization with the  
25 SOS, a 24-hour contribution report, and a semi-annual campaign statement for the reporting period of  
26 May 22, 2016 through June 30, 2016.

27 84. The public harm inherent in advertising violations is that the public is deprived of  
28 important, time-sensitive information regarding the true source of an advertisement. The public harm is



1 mitigated if the advertisements were amended to provide an accurate disclosure statement, prior to the  
2 election.

3 85. The Committee's and Sims' advertising violations are somewhat mitigated because the  
4 expenditures were reported on the Committee's pre-election campaign statement filed prior to the election.  
5 However, the advertisements were never amended to include accurate disclosure statements.

6 86. The Committee and Sims used a variety of names on its campaign advertisements, none of  
7 which match the name reported on the Committee's statement of organization filed with the local filing  
8 officer. Thus, the public was not aware that the Committee and Sims were responsible for producing  
9 multiple advertisements until the Committee's first pre-election campaign statement was filed, four days  
10 prior to the election. Also, using a variety of names on its disclosure statements could have caused  
11 confusion among the public regarding who was the true source of the advertisements.

12 87. The Committee and Sims reported additional campaign advertisements produced by the  
13 Committee that were not available during investigation including yard signs, Facebook advertisements  
14 and a video advertisement. Thus, the advertising violations were not isolated but part of a pattern of failing  
15 to include the proper disclosure statement on advertisements produced by the Committee.

16 88. The Committee and Sims claim to have reached thousands of voters through its campaign  
17 advertisements. The Committee's campaign website included the following blurb, "We are running low  
18 on funds because we are finally reaching several thousands of voters both at their home and directly online  
19 through expensive but effective Facebook ads that target 115,000 high propensity voters in Long Beach."

20 89. None of the Committee's advertisements were ever amended to provide the proper  
21 disclosure.

22 **PRAYER**

23 WHEREFORE, Complainant prays as follows:

- 24 1. That the Fair Political Practices Commission hold a hearing pursuant to Section 83116 and  
25 Regulation 18361.5, and at such hearing find that the Committee and Sims violated the Act  
26 as alleged herein;

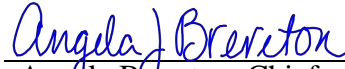
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- 1           2.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
2           order the Committee and Sims to pay a monetary penalty of up to \$5,000 for the violation  
3           of the Political Reform Act alleged in **Count 1**;
- 4           3.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
5           order the Committee and Sims to pay a monetary penalty of up to \$5,000 for the violation  
6           of the Political Reform Act alleged in **Count 2**;
- 7           4.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
8           order the Committee and Sims to pay a monetary penalty of up to \$5,000 for the violation  
9           of the Political Reform Act alleged in **Count 3**;
- 10          5.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
11          order the Committee and Sims to pay a monetary penalty of up to \$5,000 for the violation  
12          of the Political Reform Act alleged in **Count 4**;
- 13          6.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
14          order the Committee and Sims to pay a monetary penalty of up to \$5,000 for the violation  
15          of the Political Reform Act alleged in **Count 5**;
- 16          7.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
17          order the Committee and Sims to pay a monetary penalty of up to \$5,000 for the violation  
18          of the Political Reform Act alleged in **Count 6**;
- 19          8.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
20          order the Committee and Sims to pay a monetary penalty of up to \$5,000 for the violation  
21          of the Political Reform Act alleged in **Count 7**;
- 22          9.     That the Fair Political Practices Commission, pursuant to Regulation 18361.5, subdivision  
23          (d), consider the following factors in framing a proposed order following a finding of a  
24          violation pursuant to Section 83116: (1) the seriousness of the violation; (2) the presence or  
25          absence of any intention to conceal, deceive or mislead; (3) whether the violation was  
26          deliberate, negligent or inadvertent; (4) whether the violator demonstrated good faith by  
27          consulting the Commission staff or any other government agency in a manner not  
28          constituting a complete defense under Section 83114, subdivision (b); (5) whether the

1 violation was isolated or part of a pattern and whether the violator has a prior record of  
2 violations of the Act or similar laws; and (6) whether the violator, upon learning of a  
3 reporting violation, voluntarily filed amendments to provide full disclosure.

- 4 10. That the Fair Political Practices Commission grant such other and further relief as it deems  
5 just and proper.

6  
7 Dated: November 9, 2020



8 Angela Breerton, Chief of Enforcement  
9 Fair Political Practices Commission  
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