

1 GALENA WEST
2 Chief of Enforcement
3 AMANDA KELLY
4 Commission Counsel
5 **FAIR POLITICAL PRACTICES COMMISSION**
6 428 J Street, Suite 620
7 Sacramento, CA 95814
8 Telephone: (916) 322-5660
9 Facsimile: (916) 322-1932

10 Attorneys for Complainant

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12
13 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

14 STATE OF CALIFORNIA

15 In the Matter of) FPPC No.: 15/1346
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17 Complainant, the Enforcement Division of the Fair Political Practices Commission, hereby
18 submits this Default Decision and Order for consideration by the Fair Political Practices Commission at
19 its next regularly scheduled meeting.

20 Pursuant to the California Administrative Procedure Act,¹ Tim Hodge for City Council '92 (the
21 "Committee") and Tim Hodge ("Hodge") have been served with all of the documents necessary to conduct
22 an administrative hearing regarding the above-captioned matter, including the following:

- 23 1. An Order Finding Probable Cause;
- 24 2. An Accusation;
- 25 3. A Notice of Defense (Two Copies per Respondent);
- 26 4. A Statement to Respondent; and,
- 27

28 ¹ The California Administrative Procedure Act, which governs administrative adjudications, is contained in sections 11370 through 11529 of the Government Code.

1 5. Copies of Sections 11506, 11507.5, 11507.6 and 11507.7 of the Government Code.

2 Government Code section 11506 provides that failure of a respondent to file a Notice of Defense
3 within fifteen days after being served with an Accusation shall constitute a waiver of respondent's right
4 to a hearing on the merits of the Accusation. The Statement to Respondent, served on the Committee and
5 Hodge, explicitly stated that a Notice of Defense must be filed in order to request a hearing. The
6 Committee and Hodge failed to file a Notice of Defense within fifteen days of being served with an
7 Accusation. Government Code Section 11520 provides that, if the respondent fails to file a Notice of
8 Defense, the Commission may take action, by way of a default, based upon the respondent's express
9 admissions or upon other evidence, and that affidavits may be used as evidence without any notice to the
10 respondent.

11 The Committee and Hodge violated the Political Reform Act as described in Exhibit 1, which is
12 attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and
13 accurate summary of the law and evidence in this matter. This Default Decision and Order is submitted
14 to the Commission to obtain a final disposition of this matter.

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16 Dated: 31 Jan 17

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18 Galena West, Chief of Enforcement
19 Fair Political Practices Commission
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ORDER

The Commission issues this Default Decision and Order and imposes an administrative penalty of \$9,000 (Nine Thousand Dollars) upon Tim Hodge for City Council '92 and Tim Hodge, payable to the "General Fund of the State of California."

IT IS SO ORDERED, effective upon execution below by the Chair of the Fair Political Practices Commission at Sacramento, California.

Dated: _____

Joann Remke, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Tim Hodge for City Council '92 (the "Committee") is a candidate-controlled committee to support respondent Tim Hodge ("Hodge") in his 1992 campaign for Simi Valley City Council. Hodge is also the Committee's treasurer. Despite being opened for an election almost 25 years ago, the Committee remains open.

The Political Reform Act (the "Act")¹ requires a committee to pay the Secretary of State ("SOS") an annual fee of \$50 by January 15 each year until the termination of the committee. This matter arose out of a referral sent to the Fair Political Practices Commission's (the "Commission") Enforcement Division by SOS for the Committee's and Hodge's failure to pay the annual fee for 2013.

As a candidate-controlled committee and its candidate and treasurer, the Committee and Hodge had a duty to pay the 2013 annual fee by February 15, 2013, the 2014 annual fee by January 15, 2014 and the 2015 annual fee by January 15, 2015. Hodge and the Committee failed to pay those annual fees and the resulting penalties.

DEFAULT PROCEEDINGS UNDER THE ADMINISTRATIVE PROCEDURE ACT

When the Commission determines that there is probable cause for believing that the Act has been violated, it may hold a hearing to determine if a violation has occurred.² Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the "APA").³ A hearing to determine whether the Act has been violated is initiated by the filing of an accusation, which shall be a concise written statement of the charges, specifying the statutes and rules which the respondent is alleged to have violated.⁴

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing; (2) object to the accusation on the ground it does not state acts or omissions upon which the agency may proceed; (3) object to the form of the accusation on the ground that it is so indefinite or certain that the respondent cannot identify the transaction or prepare a defense; (4) admit the accusation in whole or in part; (5) present new matter by way of a defense; or (6) object to the accusation on the ground that, under the circumstances,

¹ The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission ("Commission") are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Section 83116.

³ The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code; Section 83116.

⁴ Section 11503.

compliance with a Commission regulation would result in a material violation of another department's regulation affecting substantive rights.⁵

The APA provides that a respondent's failure to file a Notice of Defense within 15 days after service of an accusation constitutes a waiver of the respondent's right to a hearing.⁶ Moreover, when a respondent fails to file a Notice of Defense, the Commission may take action based on the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to the respondent.⁷

PROCEDURAL REQUIREMENTS AND HISTORY

A. Initiation of the Administrative Action

The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated starts the administrative action.⁸

A finding of probable cause may not be made by the Commission unless the person alleged to have violated the Act is 1) notified of the violation by service of process or registered mail with return receipt requested; 2) provided with a summary of the evidence; and 3) informed of his or her right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated the Act.⁹ Additionally, the required notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.¹⁰

No administrative action pursuant to Chapter 3 of the Act alleging a violation of any of the provisions of Act may be commenced more than five years after the date on which the violation occurred.¹¹

Documents supporting the procedural history are included in the attached Certification of Records ("Certification") filed herewith at Exhibit 1, A-1 through A-10, and incorporated herein by reference.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against the Committee and Hodge in this matter by serving them with a Report in Support of a Finding of Probable Cause (the "Report") (Certification, Exhibit A-1) by certified mail, return receipt requested,¹² on June 10, 2016. (Certification, Exhibit A-2.) The

⁵ Section 11506, subd. (a)(1)-(6).

⁶ Section 11506, subd. (c).

⁷ Section 11520, subd. (a).

⁸ Section 91000.5, subd. (a).

⁹ Section 83115.5.

¹⁰ Section 83115.5.

¹¹ Section 91000.5.

¹² Section 83115.5.

administrative action commenced on July 2, 2016, the date the certified mail receipt was signed (Certification, Exhibit A-2), and the five-year statute of limitations was effectively tolled on this date.

As required by Section 83115.5, the packet served on the Committee and Hodge contained a cover letter and a memorandum describing probable cause proceedings, advising that the Committee and Hodge had 21 days in which to request a probable cause conference and/or to file a written response to the Report. (Certification, Exhibit A-3.) Neither the Committee nor Hodge requested a probable cause conference or submitted a written response to the Report.

B. Ex Parte Request for a Finding of Probable Cause

Because the Committee and Hodge failed to request a probable cause conference or submit a written response to the Report by the statutory deadline, the Enforcement Division submitted an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served to the Hearing Officer of the Commission on August 2, 2016. (Certification, Exhibit A-4.)

On August 16, 2016, Hearing Officer Brian Lau, Senior Commission Counsel, Legal Division issued a Finding of Probable Cause and an Order to Prepare and Serve an Accusation on the Committee and Hodge. (Certification, Exhibit A-5.)

C. The Issuance and Service of the Accusation

Under the Act, if the Hearing Officer makes a finding of probable cause, the Enforcement Division must prepare an accusation pursuant to Section 11503 of the APA, and have it served on the persons who are the subject of the probable cause finding.¹³

Section 11503 states:

A hearing to determine whether a right, authority, license, or privilege should be revoked, suspended, limited, or conditioned shall be initiated by filing an accusation or District Statement of Reduction in Force. The accusation or District Statement of Reduction in Force shall be a written statement of charges that shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his or her defense. It shall specify the statutes and rules that the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of those statutes and rules. The accusation or District Statement of Reduction in Force shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

¹³ Regulation 18361.4, subd. (e).

Upon the filing of the accusation, the agency must 1) serve a copy thereof on the respondent as provided in Section 11505, subdivision (c); 2) include a post card or other form entitled Notice of Defense that, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506; 3) include (i) a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon the respondent of the accusation, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and (ii) copies of Sections 11507.5, 11507.6, and 11507.7.¹⁴ The APA also sets forth the language required in the accompanying statement to the respondent.¹⁵

The Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but no order adversely affecting the rights of the respondent may be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in the APA.¹⁶

On November 22, 2016, the Commission's Chief of Enforcement, Galena West, issued an Accusation against the Committee and Hodge in this matter. (Certification, Exhibit A-6.) In accordance with Section 11505, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense Form for each respondent, copies of Government Code Sections 11506, 11507.5, 11507.6 and 11507.7 were personally served on Hodge on December 1, 2016. (Certification, Exhibit A-8.)

Along with the Accusation, the Enforcement Division served the Committee and Hodge with a "Statement to Respondent," which notified them that they could request a hearing on the merits and warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, they would be deemed to have waived the right to a hearing. (Certification, Exhibit A-7.) Neither the Committee nor Hodge filed a Notice of Defense within the statutory time period, which ended on December 16, 2016.

As a result, on January 31, 2017, the Enforcement Division sent a letter to the Committee and Hodge advising that this matter would be submitted for a Default Decision and Order at the Commission's public meeting scheduled for February 16, 2017. (Certification, Exhibit A-10.) A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter.

SUMMARY OF THE LAW

An express purpose of the Act is to ensure voters are fully informed and improper practices are inhibited by requiring all candidates, as well as the committees that support or oppose them, to

¹⁴ Section 11505, subd. (a).

¹⁵ Section 11505, subd. (b).

¹⁶ Section 11505, subd. (c).

disclose all contributions and expenditures made throughout a campaign.¹⁷ In furtherance of this purpose, the Act requires a controlled committee to file a statement of organization with SOS and pay an annual fee.¹⁸

Each committee must pay SOS an annual fee of \$50 by February 15, 2013, and then by January 15 each year until the termination of the committee.¹⁹ A committee that fails to timely pay the annual fee is subject to a penalty equal to three times the amount of the fee. The Commission is required to enforce this provision of the Act.²⁰

SUMMARY OF THE EVIDENCE

The Committee qualified as a local candidate-controlled committee on or about June 7, 1992 when it filed a Statement of Organization with SOS, and has filed campaign statements and reports since that time. On its most recent semi-annual campaign statement, for the period of January 1, 2016 through June 30, 2016, the Committee showed an ending cash balance of \$1,473.00. (Certification, Exhibit A-9.)

Hodge was never elected to the Simi Valley City Council. He currently serves as a member of the Simi Valley Planning Commission, a position to which he was appointed in December 2012.

According to SOS, it sent the Committee and Hodge letters on November 6, 2012, December 4, 2013, November 20, 2014, November 20, 2015, and November 18, 2016, which reminded them of their duty to pay the annual fee. The Committee and Hodge did not respond, and the matter was referred to the Enforcement Division.

The Enforcement Division attempted to contact the Committee and Hodge by U.S. mail to settle this matter on September 11, 2015 and October 1, 2015. Enforcement Division staff also sent Hodge emails to attempt settle the case on August 26, 2016, September 12, 2016, September 26, 2016, and October 10, 2016, and received replies on August 26, 2016 and October 10, 2016, in which Hodge promised to pay the proposed settlement amounts. After October 10, 2016, the Committee and Hodge did not respond further.

As of January 18, 2017, the Committee and Hodge have not paid the annual fees for 2013, 2014, and 2015, or paid the penalties for failing to timely pay the annual fees, but the Committee remains active.

VIOLATIONS

The Committee and Hodge committed three violations of the Act, as follows:

¹⁷ Section 81002, subd. (a).

¹⁸ Section 84101.5, subd. (b).

¹⁹ Section 84101.5, subd. (c).

²⁰ Section 84101.5, subd. (d).

COUNT 1

Failure to Timely Pay the 2013 Annual Fee and Penalty

The Committee and Hodge had a duty to pay the 2013 annual fee to SOS by February 15, 2013. By failing to timely pay the \$50 annual fee, and failing to pay the \$150 penalty for failing to timely pay the annual fee, the Committee and Hodge violated Government Code Section 84101.5, subdivisions (c) and (d).

COUNT 2

Failure to Timely Pay the 2014 Annual Fee and Penalty

The Committee and Hodge had a duty to pay the 2014 annual fee to SOS by January 15, 2014. By failing to timely pay the \$50 annual fee, and failing to pay the \$150 penalty for failing to timely pay the annual fee, the Committee and Hodge violated Government Code Section 84101.5, subdivisions (c) and (d).

COUNT 3

Failure to Timely Pay the 2015 Annual Fee and Penalty

The Committee and Hodge had a duty to pay the 2015 annual fee to SOS by January 15, 2015. By failing to timely pay the \$50 annual fee, and failing to pay the \$150 penalty for failing to timely pay the annual fee, the Committee and Hodge violated Government Code Section 84101.5, subdivisions (c) and (d).

CONCLUSION

This matter consists of three counts of violating the Act, which carries a maximum administrative penalty of \$15,000.²¹

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5 subdivision (d)(1) through (6): (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 the Commission staff or any other governmental agency in a manner not constituting complete defense under Government Code section 83114(b); (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations

²¹ Section 83116, subd. (c).

of the Political Reform Act or similar laws; and (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

In this matter, the Committee and Hodge failed to pay the annual fees and penalties for three years, despite numerous contacts regarding these violations. As of January 18, 2017, Hodge is in office as a planning commissioner, and the Committee has not been terminated.

In mitigation, the annual fees arise out of a committee formed in 1992 for a single campaign that year. Although the Committee has continued to file campaign statements for 25 years and carries a cash balance in its account, the Committee has not received contributions or made expenditures in years, if not decades. In addition, Hodge was never elected to the Simi Valley City Council.

The Enforcement Division also takes into consideration previous cases that were approved by the Commission in determining penalties. In this matter, the following case was used as a guideline:

- *In the Matter of Tina Baca Del Rio, Friends of Tina Baca Del Rio, and Tina Baca Del Rio for Commerce City Council 2013*, FPPC No. 12/832. (The Commission approved a stipulated decision on September 15, 2016.) The respondents failed to pay the annual fees and penalties to SOS for 2013 and 2014. The Commission imposed a penalty of \$2,000 per annual fee violation. This is less egregious than the instant case as the respondents reached a negotiated settlement with the Enforcement Division, while the Committee and Hodge have not.

PROPOSED PENALTY

After considering the factors of Regulation 18361.5 and the penalties imposed in prior cases, a penalty of \$3,000 each for Counts 1–3 is recommended, for a total penalty of \$9,000.



**DECLARATION OF CUSTODIAN OF RECORDS
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
Enforcement Division**

CERTIFICATION OF RECORDS

The undersigned declares and certifies as follows:

1. I am employed as a Staff Services Analyst by the California Fair Political Practices Commission (Commission). My business address is: California Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814.
2. I am a duly authorized custodian of the records maintained by the Commission in the Enforcement Division. As such, I am authorized to certify copies of those records as being true and correct copies of the original business records which are in the custody of the Commission.
3. I have reviewed documents maintained in *FPPC Case No. 15/1346 Tim Hodge for City Council '92 and Tim Hodge*, and have caused copies to be made of documents contained therein. I certify that the copies attached hereto are true and correct copies of the documents prepared in the normal course of business and which are contained in files maintained by the Commission. The attached documents are as follows:

- EXHIBIT A-1: Report in Support of a Finding of Probable Cause, dated June 10, 2016
- EXHIBIT A-2: Proof of Service for the Report in Support of a Finding of Probable Cause and applicable statutes and regulations, dated June 10, 2016, and Return Receipt received on July 2, 2016
- EXHIBIT A-3: Cover letter to the Respondent regarding the Report in Support of a Finding of Probable Cause, memorandum describing Probable Cause Proceedings, and applicable statutes and regulations, dated June 10, 2016
- EXHIBIT A-4: Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served, dated August 2, 2016
- EXHIBIT A-5: Finding of Probable Cause and Order to Prepare and Serve an Accusation, dated August 16, 2016, and Proof of Service, dated August 17, 2016

- EXHIBIT A-6: Accusation, dated November 22, 2016
- EXHIBIT A-7: Statement to the Respondent, Notices of Defense, applicable statutes, and Proof of Service for Accusation and accompanying documents, dated November 22, 2016
- EXHIBIT A-8: Proof of Service on December 1, 2016 for Accusation and accompanying documents from process server, dated December 5, 2016
- EXHIBIT A-9: Semi-annual campaign statement for January 1, 2016 through June 30, 2016, dated August 17, 2016
- EXHIBIT A-10: Notice of Intent to Enter into Default Decision and Order, dated January 31, 2017

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 31, 2017, at Sacramento, California.


Dominika Wojenska
Staff Services Analyst, Enforcement Division
Fair Political Practices Commission

Exhibit A-1

DEFAULT DECISION AND ORDER FPPC NO. 15/1346

1 GALENA WEST
Chief of Enforcement
2 DAVE BAINBRIDGE
Assistant Chief of Enforcement
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5660
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant
Enforcement Division of the Fair Political Practices Commission
7

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

11 In the Matter of) FPPC No. 15/1346
12 TIM HODGE FOR CITY COUNCIL '92, TIM)
HODGE, AND ALAN ADELSTEIN) **REPORT IN SUPPORT OF A FINDING OF**
13) **PROBABLE CAUSE**
14) Conference Date: TBA
15) Conference Time: TBA
16) Conference Location: Commission Offices
428 J Street, Suite 620
Sacramento, CA 95814
17 Respondents.)

18 **INTRODUCTION**

19 Respondent Tim Hodge for City Council '92 ("the Committee") is Respondent Tim Hodge's
20 ("Hodge") local candidate controlled committee. The Committee's treasurer is Respondent Alan
21 Adelstein ("Adelstein"). The Political Reform Act (the "Act")¹ requires active committees to pay an
22 annual fee of \$50 each year to the Secretary of State ("SOS") until the committee is terminated.² A
23 committee that fails to timely pay this fee is subject to a penalty of three times the amount of the fee.³ A

24 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
25 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.

26 ² Section 84101.5, subd. (a).

27 ³ Section 84101.5, subd. (d).

1 committee that existed prior to January 1, 2013 is required to pay the annual fee by February 15, 2013.⁴
2 Each year thereafter, the annual fee is due by January 15.⁵ According to the SOS, the Committee
3 qualified as a committee on June 7, 1992 and failed to pay the required 2013 Annual Fee, 2014 Annual
4 Fee, and 2015 Annual Fee.

5 SUMMARY OF THE LAW

6 All legal references and discussions of law pertain to the Act's provisions as they existed in
7 2013-2015.

8 Jurisdiction

9 The Fair Political Practices Commission (the "Commission") has administrative jurisdiction to
10 enforce the provisions of the Act.⁶

11 Probable Cause Proceedings

12 Prior to the Enforcement Division commencing an administrative action, the General Counsel of
13 the Commission or her designee (the "hearing officer"), must make a finding that there is probable
14 cause to believe the respondent has violated the Act.⁷ After a finding of probable cause, the
15 Commission may hold a noticed hearing in accordance with the Administrative Procedure Act⁸ to
16 determine whether violations occurred, and levy an administrative penalty of up to \$5,000 for each
17 violation.⁹

18 Standard for Finding Probable Cause

19 To make a finding of probable cause, the hearing officer must be presented with sufficient
20 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion,
21 that a respondent committed or caused a violation.¹⁰

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23
24 ⁴ Section 84101.5, subd. (c)(3).

⁵ Section 84101.5, subd. (c)(1).

⁶ Section 83116.

⁷ Section 83115.5, and Regulations 18361 and 18361.4.

⁸ Section 11500, et seq.

⁹ Section 83116, and Regulation 18361.4, subd. (e).

¹⁰ Section 18361.4, subd. (e).

1 Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

2 When enacting the Political Reform Act, the people of the state of California found and
3 declared that previous laws regulating political practices suffered from inadequate enforcement by state
4 and local authorities.¹¹ To that end, the Act must be liberally construed to achieve its purposes.¹²

5 There are many purposes of the Act. Among these purposes are to ensure voters are fully
6 informed and improper practices are inhibited by requiring all political candidates, as well as the
7 committees that support or oppose them, to disclose all contributions and expenditures made
8 throughout a campaign.¹³ Another is to provide adequate enforcement mechanisms so that the Act will
9 be “vigorously enforced.”¹⁴

10 Annual Fee

11 Each committee that is required to file a statement of organization must pay the SOS an annual
12 \$50 fee until the termination of the committee. Each committee was required to pay the 2013 annual fee
13 by February 15, 2013, and then by January 15th every year thereafter.¹⁵ A committee that fails to timely
14 pay the annual fee is subject to a penalty equal to three times the amount of the fee. The Commission is
15 required to enforce this provision of the Act.¹⁶

16 Treasurer Liability

17 Every committee must have a treasurer.¹⁷ It is the duty of the treasurer to ensure that the
18 committee complies with all of the requirements of the Act concerning the receipt and expenditure of
19 funds and the reporting of such funds.¹⁸ A committee’s treasurer may be held jointly and severally
20 liable with the committee and the candidate for any reporting violations.¹⁹

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¹¹ Section 81001, subd. (h).
¹² Section 81003.
¹³ Section 81002, subd. (a).
¹⁴ Section 81002, subd. (f).
¹⁵ Section 84101.5, subd. (c).
¹⁶ Section 84101.5, subd. (d).
¹⁷ Section 84100.
¹⁸ Sections 81004, 84100, 84104, and 84213, and Regulation 18427.
¹⁹ Sections 83116.5 and 91006.

1 Liability for Violations

2 Any person who violates any provision of the Act, who purposely or negligently causes any
3 other person to violate any provision of the Act, or who aids and abets any other person in the violation
4 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.²⁰ This only
5 applies to persons who have filing or reporting obligations under the Act, or who are compensated for
6 services involving the planning, organizing or directing of any activity regulated or required by the
7 Act.²¹

8 **SUMMARY OF THE EVIDENCE**

9 The Committee qualified on or about June 7, 1992 as a local candidate controlled committee.
10 The Committee has failed to pay an Annual \$50 Fee to SOS for the years of 2013, 2014, and 2015 by
11 the deadline each year. Additionally, the Committee has failed to pay the subsequent penalties for
12 failing to pay the Annual \$50 Fees.

13 SOS sent the Committee multiple notices of its failure to pay the delinquent Annual Fees and
14 penalties. The Committee did not pay the fees or penalties so SOS referred the matter to the
15 Enforcement Division. The Enforcement Division contacted the Committee on October 19, 2015 and
16 September 11, 2015 by letter. The Committee has not paid any of its Annual \$50 Fees or penalties for
17 failing to comply.

18 **VIOLATIONS**

19 Count 1: Failure to Timely Pay the 2013 Annual Fee and Penalty

20 The Committee, Hodge, and Adelstein failed to pay the 2013 Annual Fee by the February 15,
21 2013 due date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of
22 Section 84101.5, subdivisions (c) and (d).

23
24 ///

25
26 ²⁰ Sections 83116 and 83116.5.

27 ²¹ Section 83116.5.

1 Count 2: Failure to Timely Pay the 2014 Annual Fee and Penalty

2 The Committee, Hodge, and Adelstein failed to pay the 2014 Annual Fee by the January 15,
3 2014 due date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of
4 Section 84101.5, subdivisions (c) and (d).

5 Count 3: Failure to Timely Pay the 2015 Annual Fee and Penalty

6 The Committee, Hodge, and Adelstein failed to pay the 2015 Annual Fee by the January 15,
7 2015 due date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of
8 Section 84101.5, subdivisions (c) and (d).

9 **OTHER RELEVANT MATERIAL**

10 The Enforcement Division is not aware of any other relevant information.

11 **EXCULPATORY AND MITIGATING INFORMATION**

12 The Enforcement Division is not aware of any relevant exculpatory or mitigating information.

13 **CONCLUSION**

14 Probable cause exists to believe that the Committee, Hodge, and Adelstein violated the Act by
15 failing to pay the 2013, 2014, and 2015 Annual Fee and penalties for failing to pay. The Enforcement
16 Division respectfully requests an order finding probable cause pursuant to Section 83115.5 and
17 Regulation 18361.4.

18
19 Dated: June 10, 2016

20 Respectfully Submitted,

21 **FAIR POLITICAL PRACTICES COMMISSION**

22 Galena West
23 Enforcement Chief

24 
25 By: Dave Bainbridge
26 Assistant Chief
27 Enforcement Division

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Exhibit A-2

DEFAULT DECISION AND ORDER FPPC NO. 15/1346

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814. On June 10, 2016, I served the following document(s):

1. Letter dated June 10, 2016 from Dave Bainbridge;
2. FPPC No. 15/1346 Report in Support of a Finding of Probable Cause;
3. Probable Cause Fact Sheet
4. Selected Sections of the California Government Code regarding Probable Cause Proceedings for the Fair Political Practices Commission; and
5. Selected Regulations of the Fair Political Practices Commission regarding Probable Cause Proceedings

By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

X By United States Postal Service. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the addresses listed below and placed the envelope or package for collection and mailing by certified mail, return receipt requested, following my company's ordinary business practices. I am readily familiar with this business' practice for collection and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

SERVICE LIST


Certified Mail, Return Receipt Requested

Tim Hodge
Tim Hodge for City Council '92
[REDACTED]
[REDACTED]

Alan Adelstein
Tim Hodge for City Council '92
[REDACTED]
[REDACTED]

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 10, 2016

[REDACTED]
Elizabeth Enea

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> Complete Items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> [Redacted] <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery Tim Hodge 7-2-16</p>												
<p>1. Article Addressed to: Tim Hodge Tim Hodge for City Council '92</p>	<p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
 9590 9403 0234 5146 5234 08	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
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<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise												
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<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												
<p>2. Article Number (Transfer from service label) 7012 3460 0000 2695 5264</p>	<p><input type="checkbox"/> Mail <input type="checkbox"/> Mail Restricted Delivery (00)</p>												
PS Form 3811, April 2015 PSN 7530-02-000-9053	Domestic Return Receipt												

UNITED STATES POSTAL SERVICE
 CALIF. 02 JUL '16


First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

16 JUL 3:22 PM '16
 RECEIVED
 FAIR POLITICAL PRACTICES COMMISSION

• Sender: Please print your name, address, and ZIP+4® in this box.

Fair Political Practices Commission
 Attn. Elizabeth Enea
 428 J Street, Suite 620
 Sacramento, CA 95814

USPS TRACKING#


 9590 9403 0234 5146 5234 08

7012 3460 0000 2695 5264

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OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To Tim Hodge

Street, Apt. No. or PO Box No. [REDACTED]

[REDACTED]

Exhibit A-3



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

June 10, 2016

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Tim Hodge
Tim Hodge for City Council '92

[REDACTED]
[REDACTED]

Alan Adelstein
Tim Hodge for City Council '92

[REDACTED]
[REDACTED]

In the Matter of Tim Hodge for City Council '92; FPPC No. 15/1346

Dear Mr. Hodge and Mr. Adelstein:

The Enforcement Division of the Fair Political Practices Commission (the "Commission") is proceeding with an administrative action against you for your failure to comply with the filing and disclosure provisions of the Political Reform Act (the "Act"), as described in our previous correspondence dated September 11, 2015 and October 19, 2016. The enclosed Report in Support of a Finding of Probable Cause (the "Report") contains a summary of the alleged violations and the relevant law and evidence.

You have the right to file a written response to the Report. That response may contain any information you think is relevant and that you wish to bring to the attention of the Commission's General Counsel (the "Hearing Officer"). In your response, please indicate whether you would like the Hearing Officer to make a determination of probable cause based on the written materials alone (the Report and your response) or request a conference, during which you may orally present your case to the Hearing Officer. Probable cause conferences are held in our office which is located at 428 J Street, Ste. 620, Sacramento, CA 95814. You may appear at the conference in person or by telephone and you are entitled to be represented by counsel. *If you wish to submit a written response or request a probable cause conference, it must be filed with the Commission Assistant at the address listed above within 21 days from the date of service of this letter.* You can reach the Commission Assistant at (916) 327-8269.

Please note: probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether there is probable cause to believe that the Act


was violated. However, settlement discussions are encouraged by the Commission and may take place at any time except during a probable cause conference. *If you are interested in reaching a settlement in this matter, please contact Elizabeth Enea at (916) 322-2689 or eenea@fppc.ca.gov.*

Finally, you have the right to request discovery of the evidence in possession of, and relied upon by, the Enforcement Division. *This request must also be filed with the Commission Assistant within 21 days from the date of service of this letter.* Should you request discovery, the Enforcement Division will provide the evidence by service of process or certified mail. From the date you are served with the evidence, you would have an additional 21 days to file a written response to the Report, just as described above.

Should you take no action within 21 days from the date of service of this letter, your rights to respond and to request a conference are automatically waived and the Enforcement Division will independently pursue the issuance of an accusation.

For your convenience, I have enclosed a fact sheet on probable cause proceedings and copies of the most relevant statutes and regulations.

Sincerely,



Dave Bainbridge
Assistant Chief
Enforcement Division

Enclosures (3)

DB:ee

PROBABLE CAUSE FACT SHEET

INTRODUCTION

The Fair Political Practices Commission is required by law to determine whether probable cause exists to believe that the Political Reform Act (the "Act") was violated before a public administrative accusation may be issued.

The probable cause proceedings before the Fair Political Practices Commission are unique, and most respondents and their attorneys are unfamiliar with them. Therefore, we have prepared this summary to acquaint you with the process.

THE LAW

Government Code sections 83115.5 and 83116 set forth the basic requirement that a finding of probable cause be made in a "private" proceeding before a public accusation is issued and a public hearing conducted in accordance with the Administrative Procedure Act.

The Commission has promulgated regulations further defining the probable cause procedure and delegating to the General Counsel (the "Hearing Officer" for purposes of these proceedings) the authority to preside over such proceedings and decide probable cause. A copy of these statutes and regulations are attached for your convenience.

In summary, the statutes and regulations entitle you to the following:

- a) A written probable cause report containing a summary of the law alleged to have been violated, and a summary of the evidence, including any exculpatory and mitigating information and any other relevant material and arguments;
- b) The opportunity to request discovery, respond in writing, and to request a probable cause conference within 21 days of service of the probable cause report;
- c) If the Commission met to consider whether a civil lawsuit should be filed in this matter, a copy of any staff memoranda submitted to the Commission and a transcript of staff discussions with the Commission at any such meeting; and
- d) If a timely request was made, a non-public conference with the General Counsel and the Enforcement Division staff to consider whether or not probable cause exists to believe the Act was violated.

THE PROCEDURE

Probable Cause Report

Administrative enforcement proceedings are commenced with the service, by registered or certified mail or in person, of a probable cause report. The report will contain a summary of the law and the evidence, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. It is filed with the Hearing Officer.

Discovery

Within 21 calendar days following the service of the probable cause report, you may request discovery of the evidence in the possession of the Enforcement Division. This is not a right to full discovery of the Enforcement Division file, but to the evidence relied upon by the Division along with any exculpatory or mitigating evidence¹.

This request must be sent by registered or certified mail to the Commission Assistant.

Response to Probable Cause Report

Within 21 calendar days following the service of the probable cause report (or, if you timely requested discovery, within 21 calendar days from the service of the evidence) you may submit a response to the Report. By regulation, the written response may contain, "... a summary of evidence, legal arguments, and any mitigating or exculpatory information." (Cal. Code Regs., tit. 2, § 18361.4, subd. (c).)

You must file your response with the Commission Assistant and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report.

Staff Reply

Within 10 calendar days following the date the response was filed with the Commission Assistant, Commission staff may submit any evidence or argument in rebuttal. You will be served with a copy of any such reply.

Probable Cause Conference

Probable cause conferences are held at the offices of the Fair Political Practices Commission, which is located at 428 J Street, Ste. 620, Sacramento, CA 95814. You may appear at the conference in person or by telephone. The proceedings are not public unless all proposed respondents agree to open the conference to the public. Otherwise, the probable cause report, any written responses, and the probable cause conference itself are confidential.

Unless the probable cause conference is public, the only persons who may attend are the staff of the Commission, any proposed respondent and his or her attorney or representative, and, at the discretion of the Hearing Officer, witnesses.

The Hearing Officer may, but need not, permit testimony from witnesses. Probable cause conferences are less formal than court proceedings. The rules of evidence do not apply. The conferences will be recorded and a copy of the recording will be provided upon request.

Since it has the burden of proof, the Enforcement Division is permitted to open and close the conference presentations. The Hearing Officer may also hold the record open to receive additional evidence or arguments.

Probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether or not there is probable cause to believe that the

¹ But see Title 2, California Code of Regulations, Section 18362, which states that the Commission provides access to complaints, responses to complaints, and investigative files and information in accordance with the requirements of the Public Records Act. (Govt. Code § 6250, et seq.)

Political Reform Act was violated. Anyone who wishes to discuss settlement with the Enforcement Division may do so before or after the probable cause conference but not during the conference.

Pursuant to Title 2, California Code of Regulations, Section 18361.4, subdivision (e), the Hearing Officer will find probable cause "if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation."

Ordinarily, probable cause determinations are made based upon the written probable cause report, any written response by the respondent, any written reply by the Enforcement Division, and the oral arguments presented at the conference. Timely written presentations are strongly recommended.

Probable Cause Order and Accusation

Once the matter is submitted to the Hearing Officer, the probable cause decision will normally be made within ten days. If the Hearing Officer finds probable cause, he will issue a Finding of Probable Cause, which will be publicly announced at the next Commission Meeting. An accusation will be issued soon after the Finding of Probable Cause is publicly announced.

Continuances

Every reasonable effort is made to accommodate the schedules of parties and counsel. However, once a date has been set it is assumed to be firm and will not be continued except upon the order of the Hearing Officer after a showing of good cause. Settlement negotiations will be considered good cause only if the Hearing Officer is presented with a fully executed settlement, or is convinced that settlement is imminent.

Settlements

Settlement discussions may take place at any time except during the probable cause conference. In order to open settlement discussions, a proposed respondent or his or her counsel or representative should present a written offer to settle stating, where appropriate, the violations to be admitted, and the monetary penalty or other remedy to be tendered.

The Enforcement Division attorney assigned to the case will negotiate any potential settlement on behalf of the Fair Political Practices Commission, and will draft the language of the settlement agreement. The Hearing Officer will not directly participate in the negotiations, but will be represented by Enforcement Division attorneys. Staff attorneys will present settlement offers to the Hearing Officer for his/her approval.

CONCLUSION

This fact sheet was intended to give you a brief summary of the probable cause process at the Fair Political Practices Commission. Such a summary cannot answer every question that might arise in such proceedings. Therefore, if you have any questions that are not addressed by this fact sheet or the copies of the law and regulations we have attached, feel free to contact the attorney whose name appears on the probable cause report.

Attachments: Relevant Sections of (1) California Government Code , and (2) Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations.

CALIFORNIA GOVERNMENT CODE

Probable Cause Statutes

§ 83115.5. Probable cause; violation of title; notice of violation; summary of evidence; notice of rights; private proceedings

No finding of probable cause to believe this title has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of his right to be present in person and represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the commission a written request that the proceeding be public.

§ 83116. Violation of title; probable cause; hearing; order

When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The Commission shall have all the powers granted by that chapter. When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (a) Cease and desist violation of this title.
- (b) File any reports, statements, or other documents or information required by this title.
- (c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

**REGULATIONS OF THE FAIR POLITICAL PRACTICES COMMISSION
TITLE 2, DIVISION 6 OF THE CALIFORNIA CODE OF REGULATIONS**

Probable Cause Regulations

§ 18361 (b). Delegation by the Executive Director Pertaining to Enforcement Proceedings and Authority to Hear Probable Cause Proceedings.

Probable cause proceedings under Regulation 18361.4 shall be heard by the General Counsel or an attorney from the Legal Division. The General Counsel may delegate the authority to hear probable cause proceedings, in writing, to an administrative law judge.

§ 18361.4. Probable Cause Proceedings

(a) Probable Cause Report. If the Chief of the Enforcement Division decides to commence probable cause proceedings pursuant to Sections 83115.5 and 83116, he or she shall direct the Enforcement Division staff to prepare a written report, hereafter referred to as "the probable cause report." The probable cause report shall contain a summary of the law and evidence gathered in connection with the investigation, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. The evidence recited in the probable cause report may include hearsay, including declarations of investigators or others relating the statements of witnesses or concerning the examination of physical evidence.

(b) No probable cause hearing will take place until at least 21 calendar days after the Enforcement Division staff provides the following, by service of process or registered or certified mail with return receipt requested, to all proposed respondents:

- (1) A copy of the probable cause report;
- (2) Notification that the proposed respondents have the right to respond in writing to the probable cause report and to request a probable cause conference at which the proposed respondent may be present in person and represented by counsel, and;
- (3) If the Commission met in executive session on this matter pursuant to Regulation 18361.2, a copy of any staff memoranda submitted to the Commission at that time along with the recording of any discussion between the Commission and the staff at the executive session as required in subdivision (b) of Regulation 18361.2.

(c) Response to Probable Cause Report.

- (1) Each proposed respondent may submit a written response to the probable cause report. The response may contain a summary of evidence, legal arguments, and any mitigating or exculpatory information. A proposed respondent who submits a response must file it with the Commission Assistant who will forward the response to the General Counsel or an attorney in the Legal Division (the "hearing officer") and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report not later than 21 days following service of the probable cause report.
- (2) Within 21 calendar days following the service of the probable cause report, a proposed

respondent may request discovery of evidence in the possession of the Enforcement Division. This request must be sent by registered or certified mail to the Commission Assistant. Upon receipt of the request, the Enforcement Division shall provide discovery of evidence relied upon by the Enforcement Division sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation, along with any exculpatory or mitigating evidence. This is not a right to full discovery of the Enforcement Division file. The Enforcement Division shall provide access to documents for copying by the Respondent, or upon agreement among the parties, the Enforcement Division will provide copies of the requested documents upon payment of a fee for direct costs of duplication. The Enforcement Division shall provide such evidence by service of process or registered or certified mail with return receipt requested to all respondents, with a copy to the Commission Assistant. A respondent may submit a written response to the probable cause report described in subsection (1) no later than 21 calendar days after service of discovery.

- (3) The Commission staff may submit any evidence or argument in rebuttal to the response. When the Commission staff submits evidence or argument in rebuttal to the response, it shall provide a copy, by service of process or registered or certified mail with return receipt requested, to all proposed respondents listed in the probable cause report not later than 10 calendar days following the date the response was filed with the Commission Assistant. The hearing officer may extend the time limitations in this section for good cause. At any time prior to a determination of probable cause, the hearing officer may allow additional material to be submitted as part of the initial response or rebuttal.

(d) Probable Cause Conference. Any proposed respondent may request a probable cause conference. The request shall be served upon the Commission Assistant and all other proposed respondents not later than 21 days after service of the probable cause report unless the hearing officer extends the time for good cause. The Commission Assistant shall fix a time for the probable cause conference and the hearing officer shall conduct the conference informally. The conference shall be closed to the public unless a proposed respondent requests and all other proposed respondents agree to a public conference. If the conference is not public, only members of the Commission staff, any proposed respondent and his or her legal counsel or representative shall have the right to be present and participate. The hearing officer may allow witnesses to attend and participate in part or all of the probable cause conference. In making this determination, the hearing officer shall consider the relevancy of the witness' proposed testimony, whether the witness has a substantial interest in the proceedings, and whether fairness requires that the witness be allowed to participate. Representatives of any civil or criminal prosecutor with jurisdiction may attend the conference at the discretion of the hearing officer if they agree to respect the confidential nature of the proceedings. If the conference is not open to the public and none of the parties and the presiding officer object, the conference may be conducted in whole or in part by telephone. The probable cause conference shall be recorded. The hearing officer may determine whether there is probable cause based solely on the probable cause report, any responses or rebuttals filed and any arguments presented at the probable cause conference by the interested parties. If the hearing officer requires additional information before determining whether there is probable cause, he or she may permit any party to submit additional evidence at the probable cause conference.

(e) Finding of Probable Cause. The hearing officer may find there is probable cause to believe a violation has occurred if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation. A finding of probable cause by the hearing officer does not constitute a finding that a violation has actually occurred. The hearing officer shall not make a finding of probable cause if he or she is presented with clear and convincing evidence that, at a time prior to the alleged violation, the violator consulted with the staff of the Commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice of the staff or because of the staff's failure to provide advice. If the hearing officer makes a finding of probable cause, the Enforcement Division shall prepare an Accusation pursuant to Section 11503 and have it served upon the person or persons who are subjects of the probable cause finding. The hearing officer shall publicly announce the finding of probable cause. The announcement shall contain a summary of the allegations and a cautionary statement that the respondent is presumed to be innocent of any violation of the Act unless a violation is proved in a subsequent proceeding. The Chief of the Enforcement Division shall be responsible for the presentation of the case in support of the Accusation at an administrative hearing held pursuant to Section 83116.

§ 18362. Access to Complaint Files

(a) Access to complaints, responses thereto, and investigative files and information shall be granted in accordance with the requirements of the Public Records Act (Government Code Section 6250, et seq.).

(b) When release of material is requested pursuant to subdivision (a), the Executive Director, or his or her designee, shall review the material prior to its release or prior to a claim of exemption to determine that the requirements of the Public Records Act have been satisfied.

(c) Any person requesting copies of material pursuant to subdivision (a) shall reimburse the Commission \$0.10 per page for each page copied or supply copying equipment and make copies in the offices of the Commission. Documents may not be removed from the offices of the Commission. If the request is for copies totaling ten pages or less, the copies shall be provided without charge for copying since the administrative costs do not warrant collection of \$1.00 or less. If the request is for copies totaling more than ten pages, reimbursements of copying costs shall include the cost for the first ten pages. Charges imposed pursuant to this subdivision are for the purpose of recovering the cost of copying.

(d) Requests for access and copies pursuant to subdivision (a) shall be made in writing and shall specifically identify the documents sought.

§ 18361.2. Memorandum Respecting Civil Litigation.

(a) If the Executive Director concludes civil litigation should be initiated, he or she shall submit to the Commission a written memorandum, which shall be first reviewed by the General Counsel, or an attorney from the Legal Division, summarizing the facts and the applicable law of the case and recommending the initiation of a lawsuit. The memorandum shall include all exculpatory and mitigating information known to the staff.

(b) The Commission shall review the memorandum at an executive session. The General Counsel, or an attorney from the Legal Division, and the Commission Assistant shall be in attendance. No other member of the staff may be present unless the Commission meets with a member of the staff for that person to answer questions. The Commission may not resume its deliberations until the person is no longer present. Any communication between the Commission and the person during the executive session shall be recorded. After review of the memorandum, the Commission may direct the Executive Director to do any of the following:

- (1) Initiate civil litigation.
- (2) Decide whether probable cause proceedings should be commenced pursuant to 2 Cal. Code of Regulations Section 18361.4.
- (3) Return the matter to the staff for further investigation.
- (4) Take no further action on the matter or take any other action it deems appropriate.

(c) If the Commission decides to initiate civil litigation, the Commission may then permit other members of the staff to attend the executive session.

(d) If the Executive Director deems it necessary, he or she may call a special meeting of the Commission to review a staff memorandum recommending the initiation of civil litigation.

(e) It is the intent of the Commission in adopting this section to preserve for the members of the Commission the authority to decide whether alleged violations should be adjudicated in administrative hearings or in civil litigation, while at the same time avoiding the possibility that discussions with members of the staff might cause members of the Commission to prejudge a case that might be heard by the Commission under Government Code Section 83116.

Exhibit A-4

GALENA WEST
Chief of Enforcement
DAVE BAINBRIDGE
Assistant Chief of Enforcement
FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5660
Facsimile: (916) 322-1932

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	) FPPC No. 15/1346
)
TIM HODGE FOR CITY COUNCIL '92	) EX PARTE REQUEST FOR A FINDING OF
AND TIM HODGE,	) PROBABLE CAUSE AND AN ORDER THAT
	) AN ACCUSATION BE PREPARED AND
	) SERVED
)
Respondents.	) Gov. Code § 83115.5
)
)

TO THE HEARING OFFICER OF THE FAIR POLITICAL PRACTICES COMMISSION:

Pursuant to Section 83115.5 of the Political Reform Act (the "Act")¹ and Regulation 18361.4, Respondents Tim Hodge For City Council '92 ("the Committee") and Tim Hodge ("Hodge") were served with a copy of a report in support of a finding of probable cause ("Report") in the above-entitled matter.² The Report, attached as "Exhibit A," was part of a packet of materials, including a cover letter and a memorandum describing probable cause proceedings, which was sent to the Committee and Hodge on June 10, 2016, by certified mail, with a return receipt requested, and received by the Committee and Hodge on July 2, 2016. A copy of Hodge's signed return receipt is attached as "Exhibit B."

¹ 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 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.

² Gov. Code § 83115.5; Cal. Code Reg., tit. 2, § 18361.4.

1 In the cover letter dated June 10, 2016, and the attached materials, the Committee and Hodge
2 were advised that they could respond in writing to the Report and orally present the case to the Hearing
3 Officer at a probable cause conference to be held in Sacramento. The Committee and Hodge were
4 further advised that in order to have a probable cause conference they needed to make a written request
5 for one on or before 21 days of the date they received the Report. Additionally, the Committee and
6 Hodge were advised that if they did not request a probable cause conference, such a conference would
7 not be held and probable cause would be determined based solely on the Report and any written
8 response that they submitted within 21 days of the date they were served with the Report. To date, the
9 Committee and Hodge have not submitted a written response or requested a probable cause conference.

10 WHEREFORE, based on the attached Report, the Enforcement Division requests a finding by
11 the Hearing Officer that probable cause exists to believe that the Committee and Hodge committed three
12 violations of the Act, stated as follows:

13 Count 1: Failure to Timely Pay the 2013 Annual Fee and Penalty

14 The Committee and Hodge failed to timely pay the 2013 Annual Fee by the February 15, 2013
15 due date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of
16 Section 84101.5, subdivisions (c) and (d).

17 Count 2: Failure to Timely Pay the 2014 Annual Fee and Penalty

18 The Committee and Hodge failed to timely pay the 2014 Annual Fee by the January 15, 2014
19 due date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of
20 Section 84101.5, subdivisions (c) and (d).

21 Count 3: Failure to Timely Pay the 2015 Annual Fee and Penalty

22 The Committee and Hodge failed to timely pay the 2015 Annual Fee by the January 15, 2015
23 due date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of
24 Section 84101.5, subdivisions (c) and (d).

25 ///

26 ///

1 Additionally, after finding probable cause exists, the Enforcement Division requests an order by
2 the Hearing Officer that an accusation be prepared against the Committee and Hodge and served upon
3 them.³

4 A copy of this Request was sent via U.S. Mail to the Committee and Hodge on August 2, 2016 to
5 Hodge's last known addresses, as follows:

6 Tim Hodge
7 o/b/o Tim Hodge for City Council '92
8 402 Country Club Drive, Unit E
9 Simi Valley, CA 93065

10 Dated: August 2, 2016

Respectfully Submitted,

FAIR POLITICAL PRACTICES COMMISSION

Galena West
Chief of Enforcement



By: Dave Bainbridge
Assistant Chief
Enforcement Division

³ Gov. Code § 11503.

EXHIBIT A

1 GALENA WEST
Chief of Enforcement
2 DAVE BAINBRIDGE
Assistant Chief of Enforcement
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5660
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant
Enforcement Division of the Fair Political Practices Commission
7

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

11 In the Matter of

12 **TIM HODGE FOR CITY COUNCIL '92, TIM**
13 **HODGE, AND ALAN ADELSTEIN**

) FPPC No. 15/1346
)
) **REPORT IN SUPPORT OF A FINDING OF**
) **PROBABLE CAUSE**
)
) Conference Date: TBA
) Conference Time: TBA
) Conference Location: Commission Offices
428 J Street, Suite 620
Sacramento, CA 95814

14
15
16 Respondents.
17

18 **INTRODUCTION**

19 Respondent Tim Hodge for City Council '92 ("the Committee") is Respondent Tim Hodge's
20 ("Hodge") local candidate controlled committee. The Committee's treasurer is Respondent Alan
21 Adelstein ("Adelstein"). The Political Reform Act (the "Act")¹ requires active committees to pay an
22 annual fee of \$50 each year to the Secretary of State ("SOS") until the committee is terminated.² A
23 committee that fails to timely pay this fee is subject to a penalty of three times the amount of the fee.³ A

24 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
25 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.

26 ² Section 84101.5, subd. (a).

27 ³ Section 84101.5, subd. (d).

1 committee that existed prior to January 1, 2013 is required to pay the annual fee by February 15, 2013.⁴
2 Each year thereafter, the annual fee is due by January 15.⁵ According to the SOS, the Committee
3 qualified as a committee on June 7, 1992 and failed to pay the required 2013 Annual Fee, 2014 Annual
4 Fee, and 2015 Annual Fee.

5 **SUMMARY OF THE LAW**

6 All legal references and discussions of law pertain to the Act's provisions as they existed in
7 2013-2015.

8 Jurisdiction

9 The Fair Political Practices Commission (the "Commission") has administrative jurisdiction to
10 enforce the provisions of the Act.⁶

11 Probable Cause Proceedings

12 Prior to the Enforcement Division commencing an administrative action, the General Counsel of
13 the Commission or her designee (the "hearing officer"), must make a finding that there is probable
14 cause to believe the respondent has violated the Act.⁷ After a finding of probable cause, the
15 Commission may hold a noticed hearing in accordance with the Administrative Procedure Act⁸ to
16 determine whether violations occurred, and levy an administrative penalty of up to \$5,000 for each
17 violation.⁹

18 Standard for Finding Probable Cause

19 To make a finding of probable cause, the hearing officer must be presented with sufficient
20 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion,
21 that a respondent committed or caused a violation.¹⁰

22
23
24 ⁴ Section 84101.5, subd. (c)(3).

⁵ Section 84101.5, subd. (c)(1).

⁶ Section 83116.

⁷ Section 83115.5, and Regulations 18361 and 18361.4.

⁸ Section 11500, et seq.

⁹ Section 83116, and Regulation 18361.4, subd. (c).

¹⁰ Section 18361.4, subd. (e).

1 Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

2 When enacting the Political Reform Act, the people of the state of California found and
3 declared that previous laws regulating political practices suffered from inadequate enforcement by state
4 and local authorities.¹¹ To that end, the Act must be liberally construed to achieve its purposes.¹²

5 There are many purposes of the Act. Among these purposes are to ensure voters are fully
6 informed and improper practices are inhibited by requiring all political candidates, as well as the
7 committees that support or oppose them, to disclose all contributions and expenditures made
8 throughout a campaign.¹³ Another is to provide adequate enforcement mechanisms so that the Act will
9 be “vigorously enforced.”¹⁴

10 Annual Fee

11 Each committee that is required to file a statement of organization must pay the SOS an annual
12 \$50 fee until the termination of the committee. Each committee was required to pay the 2013 annual fee
13 by February 15, 2013, and then by January 15th every year thereafter.¹⁵ A committee that fails to timely
14 pay the annual fee is subject to a penalty equal to three times the amount of the fee. The Commission is
15 required to enforce this provision of the Act.¹⁶

16 Treasurer Liability

17 Every committee must have a treasurer.¹⁷ It is the duty of the treasurer to ensure that the
18 committee complies with all of the requirements of the Act concerning the receipt and expenditure of
19 funds and the reporting of such funds.¹⁸ A committee’s treasurer may be held jointly and severally
20 liable with the committee and the candidate for any reporting violations.¹⁹

21
22 ¹¹ Section 81001, subd. (h).

23 ¹² Section 81003.

24 ¹³ Section 81002, subd. (a).

25 ¹⁴ Section 81002, subd. (f).

26 ¹⁵ Section 84101.5, subd. (c).

27 ¹⁶ Section 84101.5, subd. (d).

28 ¹⁷ Section 84100.

¹⁸ Sections 81004, 84100, 84104, and 84213, and Regulation 18427.

¹⁹ Sections 83116.5 and 91006.

1 Liability for Violations

2 Any person who violates any provision of the Act, who purposely or negligently causes any
3 other person to violate any provision of the Act, or who aids and abets any other person in the violation
4 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.²⁰ This only
5 applies to persons who have filing or reporting obligations under the Act, or who are compensated for
6 services involving the planning, organizing or directing of any activity regulated or required by the
7 Act.²¹

8 **SUMMARY OF THE EVIDENCE**

9 The Committee qualified on or about June 7, 1992 as a local candidate controlled committee.
10 The Committee has failed to pay an Annual \$50 Fee to SOS for the years of 2013, 2014, and 2015 by
11 the deadline each year. Additionally, the Committee has failed to pay the subsequent penalties for
12 failing to pay the Annual \$50 Fees.

13 SOS sent the Committee multiple notices of its failure to pay the delinquent Annual Fees and
14 penalties. The Committee did not pay the fees or penalties so SOS referred the matter to the
15 Enforcement Division. The Enforcement Division contacted the Committee on October 19, 2015 and
16 September 11, 2015 by letter. The Committee has not paid any of its Annual \$50 Fees or penalties for
17 failing to comply.

18 **VIOLATIONS**

19 Count 1: Failure to Timely Pay the 2013 Annual Fee and Penalty

20 The Committee, Hodge, and Adelstein failed to pay the 2013 Annual Fee by the February 15,
21 2013 due date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of
22 Section 84101.5, subdivisions (c) and (d).

23
24 ///

25
26 ²⁰ Sections 83116 and 83116.5.

27 ²¹ Section 83116.5.

1 Count 2: Failure to Timely Pay the 2014 Annual Fee and Penalty

2 The Committee, Hodge, and Adelstein failed to pay the 2014 Annual Fee by the January 15,
3 2014 due date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of
4 Section 84101.5, subdivisions (c) and (d).

5 Count 3: Failure to Timely Pay the 2015 Annual Fee and Penalty

6 The Committee, Hodge, and Adelstein failed to pay the 2015 Annual Fee by the January 15,
7 2015 due date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of
8 Section 84101.5, subdivisions (c) and (d).

9 **OTHER RELEVANT MATERIAL**

10 The Enforcement Division is not aware of any other relevant information.

11 **EXCULPATORY AND MITIGATING INFORMATION**

12 The Enforcement Division is not aware of any relevant exculpatory or mitigating information.

13 **CONCLUSION**


14 Probable cause exists to believe that the Committee, Hodge, and Adelstein violated the Act by
15 failing to pay the 2013, 2014, and 2015 Annual Fee and penalties for failing to pay. The Enforcement
16 Division respectfully requests an order finding probable cause pursuant to Section 83115.5 and
17 Regulation 18361.4.

18
19 Dated: June 10, 2016

20 Respectfully Submitted,

21 **FAIR POLITICAL PRACTICES COMMISSION**

22 Galena West
23 Enforcement Chief

24 
25 By: Dave Bainbridge
26 Assistant Chief
27 Enforcement Division




SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY															
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature</p> <p>X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>															
<p>1. Article Addressed to:</p> <p>Tim Hodge Tim Hodge for City Council '92 </p>	<p>B. Received by (Printed Name)</p> <p>Tim Hodge</p>	<p>C. Date of Delivery</p> <p>9-2-10</p>														
 9590 9403 0234 5146 5234 08	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes if YES, enter delivery address below: <input type="checkbox"/> No</p>															
<p>2. Article Number (Transfer from service label)</p> <p>7012 3460 0000 2695 5264</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Mail Restricted Delivery</td> <td></td> </tr> </table>		<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Mail Restricted Delivery	
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<input type="checkbox"/> Mail Restricted Delivery																
PS Form 3811, April 2015 PSN 7530-02-000-9053		Domestic Return Receipt														

EXHIBIT B

Exhibit A-5

1 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

2 STATE OF CALIFORNIA

3
4 In the Matter of

) FPPC No. 15/1346

5 TIM HODGE FOR CITY COUNCIL '92
6 AND TIM HODGE,

)
)
) FINDING OF PROBABLE CAUSE AND
) ORDER TO PREPARE AND SERVE AN
) ACCUSATION

7 Respondents.

) Gov. Code § 83115.5
8)
9)

10 By means of an Ex Parte Request for an Order Finding Probable Cause and an Order that an
11 Accusation be Prepared and Served, the Enforcement Division submitted the above-entitled matter to the
12 Hearing Officer for a determination of Probable Cause. As set forth in the Ex Parte Request For a
13 Finding of Probable Cause and an Order that an Accusation be Prepared and Served (Ex Parte Request),
14 the Enforcement Division served a Report in Support of a Finding of Probable Cause ("PC Report") on
15 Respondents Tim Hodge for City Council '92 ("the Committee") and Tim Hodge ("Hodge") concerning
16 this matter on June 10, 2016, by certified mail, return receipt requested. Accompanying the PC Report
17 was a packet of materials that informed the Committee and Hodge of their right to file a written response
18 to the PC Report and to request a probable cause conference within 21 days following service of the PC
19 Report. During the 21 days that followed service of the PC Report, neither the Committee nor Hodge
20 filed a response to the PC Report or request a probable cause conference. Pursuant to California Code of
21 Regulations title 2, section 18361.4, determination of probable cause may be made solely on papers
22 submitted when the respondent does not request a probable cause conference.¹

23 In making a probable cause determination, it is the duty of the Hearing Officer of the Fair
24 Political Practices Commission to determine whether probable cause exists to believe that a respondent
25 violated the Political Reform Act as alleged by the Enforcement Division in the PC Report served on the
26 respondent.

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

1 Probable cause to believe a violation has occurred can be found to exist when "the evidence is
2 sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion
3 that the proposed respondent(s) committed or caused a violation."²

4 The PC Report served on the Committee and Hodge and the subsequent Ex Parte Request in this
5 matter allege violations of the Political Reform Act were committed, as follows:

6 Count 1: Failure to Timely Pay the 2013 Annual Fee and Penalty

7 The Committee and Hodge failed to pay the 2013 Annual Fee by the February 15, 2013 due date
8 and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of Section
9 84101.5, subdivisions (c) and (d).

10 Count 2: Failure to Timely Pay the 2014 Annual Fee and Penalty

11 The Committee and Hodge failed to pay the 2014 Annual Fee by the January 15, 2014 due date
12 and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of Section
13 84101.5, subdivisions (c) and (d).

14 Count 3: Failure to Timely Pay the 2015 Annual Fee and Penalty

15 The Committee and Hodge failed to pay the 2015 Annual Fee by the January 15, 2015 due date
16 and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of Section
17 84101.5, subdivisions (c) and (d).

18 Based on the Ex Parte Request given to me, I find that notice has been given to the Committee
19 and Hodge.³ I further find, based on the PC Report and the Ex Parte Request, that there is probable cause
20 to believe the Committee and Hodge violated the Political Reform Act as alleged in Counts 1-3, as
21 identified above.

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26
27 ² Cal. Code Reg., tit. 2, § 18361.4, subd. (e).

28 ³ Government Code § 83115.5; Cal. Code Reg., tit. 2, § 18361.4, subd. (b).

1 I therefore direct that the Enforcement Division issue an accusation against the Committee and
2 Hodge in accordance with this finding.

3 IT IS SO ORDERED.

4
5
6 Dated: 8/16/16



7 Brian Lau, Hearing Officer
8 Fair Political Practices Commission
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FPPC No. 15/1346, In the matter of Time Hodge for City Council '92 and Tim Hodge

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814. On the date below, I served the following document:

FINDING OF PROBABLE CAUSE AND ORDER TO PREPARE AND SERVE AN ACCUSATION

MANNER OF SERVICE

(U.S. Mail) By causing a true copy thereof to be served on the parties in this action through the U.S. Mail and addressed as listed below. I am familiar with the procedure of the Fair Political Practices Commission for collection and processing of correspondence for mailing with the United States Postal Service, and the fact that the correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

SERVICE LIST

Mr. Tim Hodge
o/b/o Tim Hodge for City Council '92

[REDACTED]
[REDACTED]

(By Personal Service) On Wednesday, August 17, 2016, at approximately 1:15 p.m., I personally served:

Galena West, Chief of Enforcement, at 428 J Street, Suite 700, Sacramento, CA 95814.
Dave Bainbridge, Assistant Chief of Enforcement, at 428 J Street, Suite 700, Sacramento, CA 95814.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this document is executed at Sacramento, California, on August 17, 2016.

[REDACTED]

Sheva Tabatabaiejad

Exhibit A-6

1 GALENA WEST
Chief of Enforcement
2 DAVE BAINBRIDGE
Assistant Chief of Enforcement
3 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
4 Sacramento, CA 95814
Telephone: (916) 322-5660
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant
7
8

9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
10 STATE OF CALIFORNIA

11 In the Matter of) FPPC No. 15/1346
12)
13 TIM HODGE FOR CITY COUNCIL '92) **ACCUSATION**
14 AND TIM HODGE,)
15) (Gov. Code §11503)
16 Respondents.)
17)

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.
28

1 **B. Factors to be Considered by the Fair Political Practices Commission**

2 9. In framing a proposed order following a finding of a violation pursuant to Section 83116,
3 the Commission and the administrative law judge shall consider all the surrounding circumstances
4 including but not limited to: (1) The seriousness of the violation; (2) The presence or absence of any
5 intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or inadvertent;
6 (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other
7 government agency in a manner not constituting a complete defense under Section 83114(b); (5) Whether
8 the violation was isolated or part of a pattern and whether the violator has a prior record of violations of
9 the Act or similar laws; and (6) Whether the violator, upon learning of a reporting violation, voluntarily
10 filed amendments to provide full disclosure.⁷

11 **GENERAL FACTS**

12 10. The Committee qualified on or about June 7, 1992 as a local candidate-controlled
13 committee. Hodge was not elected to the Simi Valley City Council, but has continued to file semi-annual
14 campaign statements since 1992. As of November 7, 2016, the Committee has not terminated.

15 11. The Committee and Hodge failed to pay the \$50 annual fee to SOS for the years of 2013,
16 2014, and 2015 by the deadline each year. Additionally, the Committee and Hodge failed to pay the
17 subsequent penalties for failing to pay the annual fees. SOS sent the Committee and Hodge multiple
18 notices of their failure to pay the delinquent annual fees and penalties, and then referred the matter to the
19 Enforcement Division.

20 12. As of November 7, 2016, the Committee and Hodge have not paid the \$50 annual fee and
21 subsequent late penalties to SOS for the years of 2013, 2014, and 2015.

22 **PROCEDURAL HISTORY**

23 13. The Enforcement Division attempted to contact the Committee and Hodge by U.S. mail
24 on September 11, 2015 and October 15, 2015. The Enforcement Division also attempted to contact the
25 Committee and Hodge several times via telephone and email.

26 14. The Enforcement Division initiated the administrative action against the Committee and
27 Hodge in this matter by serving them with a packet containing a cover letter, a Report in Support of a

28 ⁷ Reg. 18361.5, subd. (d).

1 Finding of Probable Cause ("PC Report"), a fact sheet regarding probable cause proceedings, selected
2 sections of the Government Code regarding probable cause proceedings for the Commission, and selected
3 regulations of the Commission regarding probable cause proceedings.

4 15. The Committee and Hodge were served via certified mail on July 2, 2016 with the PC
5 Report. The information contained in the PC Report packet advised the Committee and Hodge that they
6 had 21 days in which to request a probable cause conference and/or to file a written response to the PC
7 Report. As of the date of this Accusation, the Committee and Hodge have not responded to the PC Report.

8 16. By means of an Ex Parte Request for an Order Finding Probable Cause and an Order that
9 an Accusation Be Prepared and Served ("Ex Parte Request"), dated August 2, 2016, the Enforcement
10 Division submitted the matter to the Hearing Officer for a determination of probable cause.

11 17. On or about August 16, 2016, the Hearing Officer issued an order finding, based on the Ex
12 Parte Request and the PC Report, that there was probable cause to believe the Committee and Hodge
13 violated the Act and directed the Enforcement Division to issue an accusation against the Committee and
14 Hodge in accordance with the finding.

15 18. As of November 7, 2016, neither the Committee nor Hodge have paid the annual fees
16 and penalties to SOS for 2013, 2014, and 2015.

17 **VIOLATIONS**

18 19. The Committee and Hodge committed three violations of the Act as follows:

19 **Count 1**

20 **Failure to Timely Pay the 2013 Annual Fee and Penalty**

21 20. Complainant incorporates paragraphs 1 – 19 of this Accusation, as though completely set
22 forth here.

23 21. The Committee and Hodge failed to pay the 2013 annual fee by the February 15, 2013 due
24 date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of Section
25 84101.5, subdivisions (c) and (d).

26 ///

27 ///

28 ///

1 **Count 2**

2 **Failure to Timely Pay the 2014 Annual Fee and Penalty**

3 22. Complainant incorporates paragraphs 1 – 21 of this Accusation, as though completely set
4 forth here.

5 23. The Committee and Hodge failed to pay the 2014 annual fee by the January 15, 2014 due
6 date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of Section
7 84101.5, subdivisions (c) and (d).

8 **Count 3**

9 **Failure to Timely Pay the 2015 Annual Fee and Penalty**

10 24. Complainant incorporates paragraphs 1 – 23 of this Accusation, as though completely set
11 forth here.

12 25. The Committee and Hodge failed to pay the 2015 annual fee by the January 15, 2015 due
13 date and failed to pay a penalty of \$150 for failing to timely pay the annual fee, in violation of Section
14 84101.5, subdivisions (c) and (d).

15 **MITIGATING OR EXCULPATORY FACTORS**

16 26. The Enforcement Division is unaware of any mitigating or exculpatory factors.

17 **AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS**

18 27. The Committee and Hodge have failed to pay the annual fees and penalties for three
19 years, despite numerous contacts regarding these violations, and did not pay the 2016 annual fee by the
20 January 15, 2016 deadline.

21 **PRAYER**

22 WHEREFORE, Complainant prays as follows:

- 23 1. That the Fair Political Practices Commission hold a hearing pursuant to Section 83116 and
24 Regulation 18361.5, and at such hearing find that Tim Hodge for City Council '92 and Tim
25 Hodge violated the Act as alleged herein;
- 26 2. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
27 order the Committee and Hodge to pay a monetary penalty of at least One Thousand Dollars
28

1 (\$1,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the Political
2 Reform Act alleged in **Count 1**;

3 3. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
4 order Committee and Hodge to pay a monetary penalty of at least One Thousand Dollars
5 (\$1,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the Political
6 Reform Act alleged in **Count 2**;

7 4. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
8 order Committee and Hodge to pay a monetary penalty of at least One Thousand Dollars
9 (\$1,000) and not more than Five Thousand Dollars (\$5,000) for the violation of the Political
10 Reform Act alleged in **Count 3**;

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

21 6. That the Fair Political Practices Commission grant such other and further relief as it deems
22 just and proper.

23
24
25 Dated: 22 Nov 16


26 Galena West
27 Chief of Enforcement
28 Fair Political Practices Commission

Exhibit A-7



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

STATEMENT TO RESPONDENT

[Government Code Section 11505, subdivision (b)]

Tim Hodge for City Council '92 and Tim Hodge

FPPC Case No. 15/1346

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 Amanda Kelly, Graduate Legal Assistant, Enforcement Division, at (916) 322-7771 or at akelly@fppc.ca.gov.

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

TIM HODGE FOR CITY COUNCIL '92
AND TIM HODGE,

Respondents.

) NOTICE OF DEFENSE
) (Pursuant to Gov. Code § 11506)
)
) FPPC Case No. 15/1346
)
)
)
)
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)

Tim Hodge, 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.

GROUNDS 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)
) NOTICE OF DEFENSE
) (Pursuant to Gov. Code § 11506)
)
)
) TIM HODGE FOR CITY COUNCIL '92) FPPC Case No. 15/1346
) AND TIM HODGE,)
)
) Respondents.)
)
)
)

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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.

GROUNDS 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	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
)	
TIM HODGE FOR CITY COUNCIL '92	)	FPPC Case No. 15/1346
AND TIM HODGE,)	
)	
)	
Respondents.)	
)	
)	

Tim Hodge for City Council '92, 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.

GROUNDNS 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	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
)	
TIM HODGE FOR CITY COUNCIL '92)	FPPC Case No. 15/1346
AND TIM HODGE,)	
)	
)	
Respondents.)	
)	
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Tim Hodge for City Council '92, 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.

GROUNDNS 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.

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814. On 11/22/2016, I served the following document(s):

- 1. Statement to Respondent;
- 2. FPPC Case No. 15/1346: Accusation;
- 3. Notice of Defense (Two Copies per Respondent);
- 4. Selected Sections of the California Government Code, Administrative Procedure Act.

By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By personal service. At 2:58 a.m./p.m.:

I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By providing the document(s) listed above with instructions for registered process server to personally deliver the envelope(s) to the person(s) at the address(es) set forth on the service list below. **The signed proof of service by the registered process server will be attached as soon as it is available.**

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

SERVICE LIST

Personal Delivery

Sheva Tabatabainejad, Commission
Assistant
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

Personal Service

Tim Hodge
Tim Hodge for City Council '92
C/o Bradley & Gmelich
700 N. Brand Blvd., 10th Floor
Glendale, CA 91203

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on 11/22/2016.



Roone Petersen

Exhibit A-8

ATTORNEY OR PARTY WITHOUT ATTORNEY: GALENA WEST FAIR POLITICAL PRACTICES COMMISSION 428 J. STREET STE 620 SACRAMENTO, CA 95814 TELEPHONE NO.: (916) 322-5660 FAX NO.: (916) 322-1932 ATTORNEY FOR: RE: THE MATTER	FOR COURT USE ONLY
FAIR POLITICAL PRACTICES COMMISSION, COUNTY OF SACRAMENTO STREET ADDRESS: 428 J STREET, SUITE 620 MAILING ADDRESS: 428 J STREET, SUITE 620 CITY AND ZIP CODE: SACRAMENTO, 95814 BRANCH NAME:	
RE: THE MATTER: FAIR POLITICAL PRACTICES COMMISSION ACCUSED: TIM HODGE FOR CITY COUNCIL '92 AND TIM HODGE	CASE NUMBER: 15-1346
PROOF OF SERVICE	Ref. No. or File No.:


1. I am over 18 years of age and not a party to this action.
2. Received by C.A. PROCESS SERVICE on 11/22/2016 at 10:11 am to be served on **TIM HODGE TIM HODGE FOR CITY COUNCIL '92, 700 N. BRAND BLVD., 10TH FLOOR, GLENDALE, CA 91203.**
3. **INDIVIDUALLY/PERSONALLY** served by delivering a true copy of the **ACCUSATION; NOTICE OF DEFENSE; CALIFORNIA GOVERNMENT CODE SECTIONS 11506 THROUGH 11508** with the date and hour of service endorsed thereon by me, to: **TIM HODGE TIM HODGE FOR CITY COUNCIL '92** at the address of: **700 N. BRAND BLVD., 10TH FLOOR, GLENDALE, CA 91203**, and informed said person of the contents therein, in compliance with state statutes.
4. Date and Time of service: 12/1/2016 at 2:15 pm
5. I am a registered California process server.
6. My name, address, telephone number, and, if applicable, county of registration and number are:
 Name: Carlos Abrego
 Firm: C.A. PROCESS SERVICE
 Address: 14800 Rinaldi St #24, Mission Hills, CA 91345
 Telephone number: (800) 331-1072
 Registration Number: 6456
 County: Los Angeles
 The fee for the service was: \$45.00
7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: *12/5/16*

Carlos Abrego

(TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

[Handwritten Signature]



(SIGNATURE OF PERSON WHO SERVED THE PAPERS)

Exhibit A-9

**Recipient Committee
Campaign Statement
Cover Page**

COVER PAGE

Date Stamp RECEIVED CITY OF SIMI VALLEY OFFICE OF CITY CLERK BY <i>[Signature]</i>	CALIFORNIA FORM 460
2016 AUG 17 PM 2:05	Page <u>1</u> of <u>3</u> For Official Use Only

SEE INSTRUCTIONS ON REVERSE

Statement covers period
from 1-1-16
through 6-30-16

Date of election if applicable:
(Month, Day, Year)

1. Type of Recipient Committee: All Committees - Complete Parts 1, 2, 3, and 4.

- Officerholder, Candidate Controlled Committee
- State Candidate Election Committee
- Recall (Also Complete Part 5)
- General Purpose Committee
- Sponsored
- Small Contributor Committee
- Political Party/Central Committee
- Primarily Formed Candidate/Officerholder Committee (Also Complete Part 6)
- Primarily Formed Ballot Measure Committee
- Controlled
- Sponsored (Also Complete Part 6)

2. Type of Statement:

- Pre-election Statement
- Semi-annual Statement
- Termination Statement (Also file a Form 410 Termination)
- Amendment (Explain below)
- Quarterly Statement
- Special Odd-Year Report

3. Committee Information

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)
Tim Hodge for City Council

I.D. NUMBER

STREET ADDRESS (NO P.O. BOX)

CITY Simi Valley STATE CA ZIP CODE 93065 AREA CODE/PHONE

NAME OF ASSISTANT TREASURER, IF ANY

MAILING ADDRESS (IF DIFFERENT) NO. AND STREET OR P.O. BOX

MAILING ADDRESS

4. Verification

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 8-10-16 Date
Executed on 8-10-16 Date
Executed on _____ Date
Executed on _____ Date

By [Signature] Signature of Treasurer or Assistant Treasurer
By [Signature] Signature of Controlling Officerholder, Candidate, State Measure PropONENT or Responsible Officer of Sponsor
By _____ Signature of Controlling Officerholder, Candidate, State Measure PropONENT
By _____ Signature of Controlling Officerholder, Candidate, State Measure PropONENT

**Recipient Committee
Campaign Statement
Cover Page — Part 2**

5. Officeholder or Candidate Controlled Committee

NAME OF OFFICEHOLDER OR CANDIDATE
Tim Hodge

OFFICE SOUGHT OR HELD (INCLUDE LOCATION AND DISTRICT NUMBER IF APPLICABLE)
City of Simi Valley City Council

RESIDENTIAL/BUSINESS ADDRESS (NO. AND STREET) CITY STATE ZIP
Simi Valley, CA 93065

Related Committees Not Included in this Statement: List any committees not included in this statement that are controlled by you or are primarily formed to receive contributions or make expenditures on behalf of your candidacy.

COMMITTEE NAME	I.D. NUMBER	CONTROLLED COMMITTEE?
NAME OF TREASURER		<input type="checkbox"/> YES <input type="checkbox"/> NO
COMMITTEE ADDRESS STREET ADDRESS (NO P.O. BOX)		
CITY STATE ZIP CODE AREA CODE/PHONE		
COMMITTEE NAME	I.D. NUMBER	
NAME OF TREASURER		CONTROLLED COMMITTEE? <input type="checkbox"/> YES <input type="checkbox"/> NO
COMMITTEE ADDRESS STREET ADDRESS (NO P.O. BOX)		
CITY STATE ZIP CODE AREA CODE/PHONE		

6. Primarily Formed Ballot Measure Committee

NAME OF BALLOT MEASURE

BALLOT NO. OR LETTER	JURISDICTION	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
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Identify the controlling officeholder, candidate, or state measure proponent, if any.
NAME OF OFFICEHOLDER, CANDIDATE, OR PROPONENT

OFFICE SOUGHT OR HELD DISTRICT NO. IF ANY

7. Primarily Formed Candidate/Officeholder Committee List names of officeholder(s) or candidate(s) for which this committee is primarily formed.

NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE

Attach continuation sheets if necessary

Campaign Disclosure Statement Summary Page

Amounts may be rounded to whole dollars.

SUMMARY PAGE

CALIFORNIA FORM 460

Statement covers period from 1-1-16 through 6-30-16
 Page 3 of 3
 I.D. NUMBER _____

SEE INSTRUCTIONS ON REVERSE
 NAME OF FILER
 Tim Hodge for City Council

Contributions Received

	Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B CALENDAR YEAR TOTAL TO DATE
1. Monetary Contributions.....	Schedule A, Line 3 \$ 0	0
2. Loans Received.....	Schedule B, Line 3 0	0
3. SUBTOTAL CASH CONTRIBUTIONS.....	Add Lines 1 + 2 \$ 0	0
4. Nonmonetary Contributions.....	Schedule C, Line 3 0	0
5. TOTAL CONTRIBUTIONS RECEIVED.....	Add Lines 3 + 4 \$ 0	0

Expenditures Made

6. Payments Made.....	Schedule E, Line 4 \$ 0	0
7. Loans Made.....	Schedule H, Line 3 0	0
8. SUBTOTAL CASH PAYMENTS.....	Add Lines 6 + 7 \$ 0	0
9. Accrued Expenses (Unpaid Bills).....	Schedule F, Line 3 0	0
10. Nonmonetary Adjustment.....	Schedule G, Line 3 0	0
11. TOTAL EXPENDITURES MADE.....	Add Lines 8 + 9 + 10 \$ 0	0

Current Cash Statement

12. Beginning Cash Balance.....	Previous Summary Page, Line 16 \$ 1,473.00
13. Cash Receipts.....	Column A, Line 3 above 0
14. Miscellaneous Increases to Cash.....	Schedule I, Line 4 0
15. Cash Payments.....	Column A, Line 8 above 0
16. ENDING CASH BALANCE.....	Add Lines 12 + 13 + 14, then subtract Line 15 \$ 1,473.00

If this is a termination statement, Line 16 must be zero.

17. LOAN GUARANTEES RECEIVED.....	Schedule B, Part 2 \$ 0
-----------------------------------	-------------------------

Cash Equivalents and Outstanding Debts

18. Cash Equivalents.....	See instructions on reverse \$ 0
19. Outstanding Debts.....	Add Line 2 + Line 9 in Column B above \$ 0

Calendar Year Summary for Candidates Running in Both the State Primary and General Elections

20. Contributions Received	1/1 through 6/30 \$ _____	7/1 to Date \$ _____
21. Expenditures Made	\$ _____	\$ _____

Expenditure Limit Summary for State Candidates

22. Cumulative Expenditures Made*
 (if subject to Voluntary Expenditure Limit)
 Date of Election (mm/dd/yy) _____ Total to Date \$ _____

*Amounts in this section may be different from amounts reported in Column B.

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

Exhibit A-10



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

January 31, 2017

Via Certified Mail

Tim Hodge
Tim Hodge for City Council '92
C/o Bradley & Gmelich
700 N. Brand Blvd., 10th Floor
Glendale, CA 91203

NOTICE OF INTENT TO ENTER DEFAULT DECISION AND ORDER

Re: FPPC No. 15/1346
In the Matter of Tim Hodge for City Council '92 and Tim Hodge

Dear Mr. Hodge:

Enclosed please find a copy of the Default Decision and Order, and accompanying Exhibit and attachments, for the above-referenced matter. The Fair Political Practices Commission (Commission) will consider these papers at its public meeting on **February 16, 2017**, and decide whether to impose the maximum administrative penalty of \$15,000 against you.

You were previously served on July 2, 2016 with a Report in Support of a Finding of Probable Cause ("Probable Cause Report"), advising you of your right to request a probable cause conference or submit a written response to the Probable Cause Report. You did not request a probable cause conference, nor did you submit anything in writing for the Commission's Hearing Officer to consider in his determination of probable cause.

Following the issuance of the Probable Cause Report, the Commission's Hearing Officer found probable cause that you committed three violations of the Political Reform Act. Thereafter, the Commission's Chief of Enforcement issued an Accusation against you on these violations. The Accusation was personally served on you on December 1, 2016. Under the law, you have therefore received adequate notice of these proceedings and the action filed against you. Under the Administrative Procedure Act, you were required to file your Notices of Defense within 15 days after service of the Accusation. You failed to file the Notices of Defense forms. As such, your right to an administrative hearing on this matter has been forfeited, and you are in a default position.

You may, but you are not required to, provide a response brief, along with any supporting materials, no later than five calendar days before the Commission hearing at which the default is

scheduled to be heard. Your response brief must be served on the Commission Assistant, at the above address.

At its public meeting on February 16, 2017, the Commission may impose an administrative penalty against you in the amount of \$15,000, the maximum penalty for the three violations.

Following the issuance of the default order and imposition of the administrative penalty, we will commence legal proceedings to collect this fine, which may include converting the Commission's order to a court judgment. Please be advised that administrative penalties for violations of the Political Reform Act cannot be discharged in bankruptcy proceedings.

This letter is your last opportunity to resolve this matter informally by way of a stipulated settlement, before the default proceedings are commenced. If we do not reach a resolution, the enclosed documents will be placed on the Commission's agenda for the February 16, 2017 meeting. Please contact me at (916) 322-7771 or akelly@fppc.ca.gov if you wish to enter into a negotiated settlement.

Sincerely,



Amanda Kelly
Commission Counsel
Enforcement Division

Enclosures