



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

To: Chair Miadich, and Commissioners, Cardenas, Hatch, and Hayward

From: Thomas Jones, Executive Director  
Galena West, Chief of Enforcement  
Michael W. Hamilton, Commission Counsel

Date: August 5, 2019

RE: Assignment of Hearing to Administrative Law Judge (“ALJ”)

Case Name: In the Matter of Consumers for Choice, Tim Snipes, and John Stoos  
(FPPC Case No. 15/078)

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## **I. INTRODUCTION**

Respondent Consumers for Choice is a state general purpose committee. Respondent Tim Snipes (“Snipes”) served as the treasurer and principal officer of Consumers for Choice from September 29, 2011 through October 5, 2012. Respondent John Stoos (“Stoos”) served as treasurer of Consumers for Choice from October 5, 2012 until its termination on December 31, 2016.

The Political Reform Act<sup>1</sup> requires treasurers and committees to file campaign statements, report accrued expenses, and to include the name of the committee on mass mailers. Consumers for Choice and Snipes violated the Act by failing to file two semi-annual campaign statements. Additionally, Consumers for Choice and Stoos violated the Act by failing to include the name of its sponsor in the name of the committee on two mass mailers and by failing to report an accrued expense.

Consumers for Choice and Stoos have requested an administrative hearing on the Accusation attached hereto as Exhibit A. Snipes has not request an administrative hearing.

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

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<sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political 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

The Executive Director and the Chief of Enforcement are recommending that the hearing should be conducted before an ALJ pursuant to Section 11512, subdivision (a). The ALJ will then make a recommendation to the Commission on the findings of fact, law and penalty, if applicable, in the matter. The Commission will then have the opportunity to make the final determination on the case.

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

If the Executive Director determines that a hearing on the merits should be conducted before an administrative law judge alone pursuant to Government Code section 11512(a), he or she shall provide a copy of the accusation as well as a memorandum describing the issues involved to each member of the Commission. If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an administrative law judge is available.

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

### **III. PROCEDURAL HISTORY**

The Enforcement Division initiated administrative action against Consumers for Choice, Snipes, and Stoos by serving them with a Report in Support of a Finding of Probable Cause (the "Report"). Consumers for Choice and Snipes were personally served on January 25, 2017. Consumers for Choice and Stoos were personally served on January 25, 2017. Stoos requested a probable cause conference within 21 days of being served with the Report. Snipes did not request a probable cause conference within 21 days of being served with the Report thereby waiving his rights to a probable cause conference.

A probable cause conference was conducted on April 13, 2017. Assistant General Counsel Brian Lau served as hearing officer. Stoos appeared in person. Snipes did not attend the probable cause conference. On April 19, 2017, Mr. Lau issued a Finding of Probable Cause and Order to prepare and Serve an Accusation on Consumers for Choice, Snipes, and Stoos. A copy of that order was served on Consumers for Choice, Snipes, and Stoos by U.S. Mail.

On August 14, 2018, the Commission's Chief of Enforcement Galena West, issued an Accusation against the Consumers for Choice, Snipes, and Stoos. On August 22, 2018, the Accusation was personally served on Consumers for Choice and Stoos. On August 23, 2018, the Accusation was personally served on Consumers for Choice and Snipes.

On September 3, 2018, the Enforcement Division received a notice of defense from Stoos dated August 31, 2018, requesting an administrative hearing on this matter. Snipes did not file a notice of defense, but will receive notice of the hearing date and evidence to

be presented. At the hearing, the Enforcement Division will ask the ALJ to issue a Default Judgment against Consumers for Choice and Snipes.

#### **IV. PROCEDURAL ISSUES**

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

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

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

Consumers for Choice, Snipes, and Stoos violated the Act as listed below. The Accusation consists of five counts:

##### Count 1: Failure to Timely File Semi-Annual Campaign Statement

Consumers for Choice and Snipes failed to timely file a semi-annual campaign statement covering the reporting period of July 1, 2011 through December 31, 2011, in violation of Government Code Section 84200.

##### Count 2: Failure to Timely File Semi-Annual Campaign Statement

Consumers for Choice and Snipes failed to timely file a semi-annual campaign statement covering the reporting period of January 1, 2012 through June 30, 2012, in violation of Government Code Section 84200.

##### Count 3: Failure to Identify Sponsor on Mass Mailer

Consumers for Choice and Stoos failed to identify Food 4 Less as the sponsor of Consumers for Choice on its mass mailer it sent out on or around October 19, 2012, in violation of Government Code Section 84506, subdivision (a)(1).

##### Count 4: Failure to Identify Sponsor on Mass Mailer

Consumers for Choice and Stoos failed to identify Food 4 Less as the sponsor of Consumers for Choice on its mass mailer it sent out on or around October 27, 2012, in violation of Government Code Section 84506, subdivision (a)(1).

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<sup>2</sup> See Cal. Gov. Code Section 11512, subdivision (a).

<sup>3</sup> See Cal. Gov. Code Section 11512, subdivision (b).

### Count 5: Failure to Report an Accrued Expense

Consumers for Choice and Stoos failed to report an accrued expense of \$27,382.56 on their semi-annual campaign statement covering the reporting period of July 1, 2012 through December 31, 2012, in violation of Government Code Section 84211, subdivisions (i) and (k).

### **VI. CONCLUSION**

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

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<sup>4</sup> Regulation 18361.5, subdivision (b).

GALENA WEST  
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MICHAEL W. HAMILTON  
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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of

CONSUMERS FOR CHOICE, TIM  
SNIPES, AND JOHN STOOS,

Respondents.

) OAH No. \_\_\_\_\_

) FPPC No. 15/078

) ACCUSATION

) (Gov. Code §11503)

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

**JURISDICTION**

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

2. The authority to bring this action is derived from California Code of Regulations, title 2, sections 18361 and 18361.4, subdivision (e), and the statutory law of the State of California, including, Government Code sections 83111, 83116, and 91000.5, which assign to the Enforcement Division the duty to administer, implement, and enforce the provisions of the Political Reform Act, found at Government Code sections 81000 through 91014.



1 **B. Semi-Annual Statements**

2 11. The Act requires elected officials, candidates, and committees to file a semi-annual  
3 campaign statement each year by July 31 for the period ending June 30, and by January 31 for the period  
4 ending December 31.<sup>6</sup>

5 **C. Reporting of Campaign Expenditures**

6 12. The Act requires committees to report on campaign statements the total amount of  
7 expenditures made during the period. For each expenditure of \$100 or more, including accrued expenses<sup>7</sup>,  
8 the committee must disclose the full name of the recipient, as well as his or her street address, the amount  
9 of the expenditure, and a brief description of the consideration for which the expenditure was made.<sup>8</sup>

10 **D. Naming of Sponsor Requirement**

11 13. A committee is considered sponsored if it receives 80 percent or more of its contributions  
12 from a single source.<sup>9</sup> The Act specifies that a committee being sponsored shall include the name of the  
13 sponsor in the committee's name on its statement of organization.<sup>10</sup> Additionally, the Act states,  
14 "Whenever identification of a sponsored committee is required by this title, the identification shall include  
15 the full name of the committee as required in its statement of organization."<sup>11</sup>

16 **E. Name of Committee making an Independent Expenditure**

17 14. An independent expenditure is an expenditure for a communication that advocates the  
18 election or defeat of a clearly identified candidate that is not made to or at the behest of any candidate or  
19 committee.<sup>12</sup> The Act requires a committee making an independent expenditure supporting or opposing a  
20 candidate to include a disclosure statement on its advertisement that identifies the full name of the  
21 committee making the independent expenditure.<sup>13</sup>

22 ///

23 \_\_\_\_\_  
24 <sup>6</sup> Section 84200.

25 <sup>7</sup> The Act does not define an accrued expense, but is generally understood to be a liability that is recognized on the  
26 campaign statements that has not been paid.

27 <sup>8</sup> Section 84211, subdivision (k)(1) - (6).

28 <sup>9</sup> Section 82048.7, subdivision (b)(1).

<sup>10</sup> Section 84102 subdivision (a) and Regulation 18419 subdivisions (b)(1) and (2).

<sup>11</sup> Section 84106 subdivision (a).

<sup>12</sup> Section 82031.

<sup>13</sup> Section 84506 subdivision (a)(1).

1 **F. Treasurer Liability**

2 15. Under the Act, it is the duty of the treasurer to ensure that the committee complies with all  
3 the requirements of the Act concerning the receipt, expenditure, and reporting of funds.<sup>14</sup> The treasurer  
4 may be held jointly and severally liable, along with the committee, for violations by the committee.<sup>15</sup>

5 **G. Liability for Violations of the Act**

6 Under the Act, "Any person who violates any provision of this title, who purposely or negligently  
7 causes any other person to violate any provision of this title, or who aids and abets any other person in the  
8 violation of this title shall be liable...This section shall only apply to persons who have filing or reporting  
9 obligations under this title, or who are compensated for services involving the planning, organizing, or  
10 directing any activity regulated or required by this title..."<sup>16</sup>

11 **GENERAL FACTS**

12 16. Complainant incorporates paragraphs 6 - 8 of this Accusation, as though completely set  
13 forth herein.

14 17. Consumers for Choice violated the Act by failing to file two semi-annual campaign  
15 statements, by failing to report an accrued expense for mailers it sent out in opposition to Ken Cooley  
16 ("Cooley") in the November 4, 2012 General Election for Assembly District 8, and by failing to disclose  
17 it was sponsored by Food 4 Less on the mailers it sent out in opposition to Cooley.

18 **Failure to File Semi-Annual Campaign Statements**

19 18. The campaign records show that on October 21, 2011 Consumers for Choice qualified as  
20 a committee. Snipes was listed as the treasurer and principal officer of Consumers for Choice.

21 19. Consumers for Choice's failed to file semi-annual campaign statements for the reporting  
22 periods covering July 1, 2011 through December 31, 2011 and January 1, 2012 through June 30, 2012.

23 20. In the reporting period covering July 1, 2011 through December 31, 2011, Consumers for  
24 Choice's bank records establish it received a contribution of \$11,500 from Food 4 Less on October 21,

25  
26  
27 <sup>14</sup> Sections 81004, 84100 84213, and Regulation 18427.

<sup>15</sup> Sections 83116.5 and 91006.

<sup>16</sup> Section 83116.5



1 2011. This is the only contribution Consumers for Choice deposited into its bank account during this  
2 reporting period.

3 21. Consumers for Choice's bank records also establish it made the following expenditures  
4 during the reporting period of July 1, 2011 through December 31, 2011:

5 **Expenditures: July 1, 2011 through December 31, 2011**

6

7 <b>Payee</b>	<b>Date on Check</b>	<b>Amount of Expenditure</b>
8 Tim Snipes	October 24, 2011	\$3,223.96
9 Political Dynamics	October 25, 2011	\$2,000
10 Dane and Associates	October 29, 2011	\$302.75
11 Tim Snipes	October 30, 2011	\$263.70
12 3 AM Communications	October 31, 2011	\$450
13 Stanislaus ROV	November 1, 2011	\$15
14 Political Dynamics	November 3, 2011	\$500
15 Dane and Associates	November 3, 2011	\$1,510.18
16 Stanislaus ROV	November 4, 2011	\$11.19
17 Tim Snipes	November 6, 2011	\$237.65
18 SP Graphics	November 9, 2011	\$630.34
19 Tim Snipes	November 9, 2011	\$109.02
20 Tim Snipes	November 15, 2011	\$100
21 Tim Snipes	November 25, 2011	\$602
22 Grass Roots Army	December 5, 2011	\$900
23 Robert Johnson	December 31, 2011	\$1,000
24 SP Graphics	December 31, 2011	\$775.88
25	<b>Total:</b>	<b>\$12, 630.53</b>

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1 22. In the reporting period covering January 1, 2012 through June 30, 2012, Consumers for  
2 Choice's bank records establish that on January 3, 2012 it deposited into its account a contribution from  
3 Food 4 Less of \$3,500. This was only contribution Consumers for Choice deposited into its bank account  
4 during this period.

5 23. Consumers for Choice's bank records also establish it made the following expenditures  
6 during reporting period of January 1, 2012 through June 30, 2012:

7 **Expenditures: January 1, 2012 through June 30, 2012**

8

9 Payee	Date on Check	Amount of Expenditure
10 Tim Snipes	January 1, 2012	\$1,200
11 Environmental Safety Alliance	January 2, 2012	\$100
	<b>Total:</b>	<b>\$1,300</b>

12

13

14 24. Records show that on October 5, 2012, Stoos, who had been associated with Consumers  
15 for Choice since its creation as a signer on its bank account, took over official treasurer duties by filing an  
16 amended statement of organization. That same day, Stoos filed a statement of no activity (Form 425) for  
17 the reporting period of January 1, 2012 through June 30, 2012 even though Consumers for Choice had  
18 activity, as detailed above, and should have filed a standard semi-annual campaign statement (Form 460).

19 25. Neither of the semi-annual campaign statements were ever filed.

20 **Accrued Expense**

21 26. Consumers for Choice failed to timely report an accrued expense for a mailer it sent out in  
22 opposition to Cooley on its semi-annual campaign statement covering the reporting period of July 1, 2012  
23 – December 31, 2012.

24 27. Records show that Redwave Communications, a public affairs and direct mailing firm  
25 located in Iowa, produced a mailer for Consumers for Choice for which payment was never remitted.

26 28. On or around October 24, 2012, Consumers for Choice was invoiced \$27,382.56 for a  
27 mailer that was referred to on the invoice as "Tateishi Insurance 2: (11 by 12)."

1 29. Stoos testified during an interview with Special Investigator George Aradi of the Fair  
2 Political Practices Commission that Consumers for Choice was supposed to receive funding for the  
3 Tateishi Insurance 2 mailer and it was slated to go out sometime over the weekend of October 27, 2012.

4 30. On October 29, 2012, Consumers for Choice filed a Late Independent Expenditure Report  
5 disclosing that between October 27, 2012 and October 29, 2012, it made an independent expenditure in  
6 opposition to Cooley that cost \$27,382.56.

7 31. Stoos testified to Aradi during the interview that he used the invoice from Redwave  
8 Communications for Tateishi Insurance 2 mailer to fill out the Late Independent Expenditure Report.

9 32. John Feliz, a person assisting Stoos with the Consumers for Choice, told Aradi in the same  
10 interview that they were told at the "last minute" that the source or sources for the funding would not be  
11 paying for the mailer.

12 33. Stoos did not report the expenditure to Redwave Communication as an accrued expense  
13 even though he had received the invoice for services rendered and was aware that there would be no  
14 additional funding to pay for the mailer, which made the expense a liability reportable as an accrued  
15 expense.

16 Food 4 Less Sponsored Consumers for Choice

17 34. Consumers for Choice failed to disclose Food 4 Less as their sponsor on the mailers it sent  
18 out in opposition to Cooley.

19 35. Stoos caused Consumers for Choice to violate the disclosure provisions of the Act  
20 pertaining to mailers by failing to properly name Consumers for Choice as being sponsored by Food 4  
21 Less. As the treasurer, Stoos had a duty to verify that all statements and reports are correct, which includes  
22 determining whether the amount of contributions received requires the disclosure of a sponsor in the name  
23 of the committee.

24 36. Consumer's for Choice's bank statements show it received 100% of its funding from Food  
25 4 Less in 2011 and its campaign records show it received 100% of its funding from Food 4 Less in 2012.

26 37. Records show that Consumers for Choice received the following contributions from Food  
27 4 Less: a contribution \$11,500 was received on October 21, 2011, a contribution of \$3,500 was received

1 on January 3, 2012, a contribution of \$10,000 was received on October 2, 2012, and a contribution of  
2 \$25,000 was received on October 19, 2012.

3 38. Records show that on or around October 19, 2012, Consumers for Choice sent out the  
4 Tateishi Mailer #5, which consisted of approximately 58,101 mailers in opposition to Ken Cooley and did  
5 not identify Food 4 Less as its sponsor.

6 39. Records show that on or around October 29, 2012, Stoos and Consumers for Choice made  
7 an independent expenditure in the form of the Tateishi Insurance 2, which consisted of approximately  
8 57,047 mailers in opposition to Ken Cooley and did not identify Food 4 Less as its sponsor.

9 **PROCEDURAL HISTORY**

10 40. The Enforcement Division initiated this administrative action against Consumers for  
11 Choice, Snipes, and Stoos by personally serving them with a probable cause report. Snipes was personally  
12 served on January 25, 2017. Stoos was personally served on January 25, 2017.

13 41. Stoos requested a probable cause hearing within 21 days of being served with the Report.  
14 Snipes did not request a probable cause hearing within 21 days of being served with the Report thereby  
15 waiving his right to a probable cause hearing.<sup>16</sup>

16 42. On April 13, 2017, a probable cause conference was held to determine whether there was  
17 probable cause to believe Consumers for Choice, Stoos, and Snipes had violated the Act as alleged in the  
18 probable cause report. Stoos was present at the conference. Snipes was not present at the conference.

19 43. On April 19, 2017, the Commission's Hearing Officer issued a Finding of Probable Cause  
20 and Order to Prepare and Serve an Accusation. A copy of that order was served on Snipes and Stoos by  
21 U.S. Mail on or around May 11, 2017.

22 **VIOLATIONS**

23 44. Consumers for Choice, Snipes, and Stoos committed the following violations of the Act:

24 ///

25 ///

26 ///

27 <sup>16</sup> Section 83115 and Regulation 18361.4

1 **Count 1**

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

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

5 46. Consumers for Choice and Snipes had a duty to timely file a semi-annual campaign  
6 statement for the reporting period covering July 1, 2011 through December 31, 2011.

7 47. Consumers for Choice and Snipes failed to file a semi-annual campaign statement covering  
8 the reporting period of July 1, 2011 through December 31, 2011 by the January 31, 2012 deadline.

9 48. By failing to file a semi-annual campaign statement for the reporting period of December  
10 31, 2011 by the January 31, 2012 deadline, Consumers for Choice and Snipes violated Government Code  
11 section 84200.

12 **Count 2**

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

14 49. Complainant incorporates paragraphs 1 – 48 of this Accusation, as though completely set  
15 forth herein.

16 50. Consumers for Choice and Snipes had a duty to timely file a semi-annual campaign  
17 statement for the reporting period covering January 1, 2012 through June 30, 2012.

18 51. Consumers for Choice and Snipes failed to file a semi-annual campaign statement covering  
19 the reporting period of January 1, 2012 through June 30, 2012 by the July 31, 2012 deadline.

20 52. By failing to file a semi-annual campaign statement for the reporting period of January 1,  
21 2012 through June 30, 2012 by the July 31, 2012 deadline, Consumers for Choice and Snipes violated  
22 Government Code section 84200.

23 **Count 3**

24 **Failure to Identify Sponsor on Mass Mailer**

25 53. Complainant incorporates paragraphs 1 – 52 of this Accusation, as though completely set  
26 forth herein.





