



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
Theresa Gilbertson, Commission Counsel

Date: December 9, 2019

RE: Assignment of Hearing to Administrative Law Judge

Case Name: Lloyd A Johnson for West Covina City Council 2015, Lloyd Johnson, and John Shewmaker; FPPC Case No. 2015/2076

I. INTRODUCTION

Respondent Lloyd Johnson (“Johnson”) was a successful candidate for City Council of West Covina in the November 3, 2015 General Election. His candidate-controlled committee is Lloyd A Johnson for West Covina City Council 2015 (“Committee”). Respondent John Shewmaker (“Shewmaker”) was a paid consultant for the campaign and a treasurer for part of the election cycle.

The Committee and Johnson failed to report political activity and the Committee, Johnson, and Shewmaker failed to disclose the true and correct sender on mass mailings targeting Johnson’s opponents, as detailed in the Accusation attached to this memorandum. The Accusation also provides for an alternative theory of the case. If there is a finding that Shewmaker was not an agent or did not act at the behest of Johnson or the Committee, Shewmaker failed to report independent expenditure activity and failed to disclose the true and correct sender on mass mailings. Johnson and Shewmaker filed a notice of defense in response to the Accusation and requested an administrative hearing, to be heard in Los Angeles.

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

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

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

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 this administrative action against Johnson, Shewmaker, and the Committee by serving a Report in Support of a Finding of Probable Cause (“PC Report”) on or about July 27, 2018. In response to the PC Report, Johnson and Shewmaker requested discovery pursuant to Regulation § 18361.4, subdivision (c)(2). The Enforcement Division provided documents to Johnson on or about September 20, 2018 and to Shewmaker on or about October 1, 2018. An addendum to the discovery was served, by email, on December 17, 2018. No written response to the PC Report was submitted by either Shewmaker or Johnson.

On April 3, 2019, the Fair Political Practices Commission conducted a probable cause conference on the matter. Commission Counsel Theresa Gilbertson appeared on behalf of the Enforcement Division. Johnson appeared on behalf of himself and his committees, and Shewmaker appeared on behalf of himself. The hearing officer for the probable cause conference, Senior Commission Counsel Jack Woodside, determined probable cause existed to believe that Johnson, Shewmaker, and the Committee violated the Act as alleged in the PC Report. As a result, Mr. Woodside issued an order dated April 10, 2019 finding probable cause and instructing the Enforcement Division to issue an accusation against Johnson, Shewmaker, and the Committee.

On October 1, 2019, the Commission’s Chief of Enforcement Galena West issued an Accusation against Johnson, Shewmaker, and the Committee. Shewmaker submitted a notice of defense dated October 2, 2019 requesting an administrative hearing on this matter. Johnson submitted a signed notice of defense dated October 7, 2019 requesting an administrative hearing on this matter.

IV. HEARING OPTIONS

Every hearing in a contested case must be presided over by an ALJ. The agency itself shall determine whether the ALJ is to hear the case alone or whether the agency itself is to hear the case with the ALJ.¹

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.²

V. SUMMARY OF THE ACCUSATION

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

As to the Committee and Johnson:

Count 1: Failure to Report a Contribution or Expenditure on a Campaign Statement

Shewmaker, acting as the agent of the Committee and Johnson, produced and mailed a mass mailing on or around October 14, 2017 on behalf of the Committee and Johnson that advocated against the election of Johnson's opponent, Fred Sykes. The Committee and Johnson failed to report this political activity on a campaign statement for the reporting period ending October 17, 2015, in violation of Government Code section 84211.

Count 2: Failure to Report a Contribution or Expenditure on a Campaign Statement

Shewmaker, acting as the agent of the Committee and Johnson, produced and mailed a mass mailing on or around October 26, 2015 on behalf of the Committee and Johnson that advocated against the election of Johnson's opponents, Kimberly Caceres, Joe Lara-Gardner, and Tony Wu. The Committee and Johnson failed to report this political activity on a campaign statement for the reporting period ending December 31, 2015, in violation of Government Code section 84211.

As to the Committee, Johnson and Shewmaker:

Count 3: Failure to Include True and Correct Sender Identification on Mass Mailings

¹ See Gov't Code § 11512, subd. (a).

² See Gov't Code § 11512, subd. (b).

Shewmaker, acting as the agent of the Committee and Johnson, produced and mailed a mass mailing on or around October 14, 2017 on behalf of the Committee and Johnson that advocated against the election of Johnson's opponent, Fred Sykes. The Committee, Johnson, and Shewmaker failed to include the sender identification, "Paid for by Lloyd A Johnson for West Covina City Council 2015," and the address of the Committee, in violation of Government Code section 84305, subdivision (a) and Regulation 18435, subdivision (d).

Count 4: Failure to Include True and Correct Sender Identification on Mass Mailings

Shewmaker, acting as the agent of the Committee and Johnson, produced and mailed a mass mailing on or around October 26, 2015 on behalf of the Committee and Johnson that advocated against the election of Johnson's opponents, Kimberly Caceres, Joe Lara-Gardner, and Tony Wu. The Committee, Johnson, and Shewmaker failed to include the sender identification, "Paid for by Lloyd A Johnson for West Covina City Council 2015," and the address of the Committee, in violation of Government Code section 84305, subdivision (a) and Regulation 18435, subdivision (d).

As the issue regarding whether Shewmaker acted as an agent and at the behest of the Committee and Johnson is a matter of fact to be resolved through this adjudication, the Enforcement Division asks for findings in the alternative, as discussed in the Accusation.

As to Shewmaker only:

Count 5: Failure to Report an Independent Expenditure on a Campaign Statement

Shewmaker, acting independently and at his own direction, produced and mailed over 200 pieces of a mass mailing on or around October 14, 2015 that advocated against the election of Johnson's opponent, Fred Sykes. Shewmaker, having qualified in 2015 as an independent expenditure committee, failed to disclose the mass mailing on campaign statements, in violation of Government Code section 84211.

Count 6: Failure to Report an Independent Expenditure on a Campaign Statement

Shewmaker, acting independently and at his own direction, produced and mailed over 200 pieces of a mass mailing on or around October 26, 2015 that advocated against the election of Johnson's opponents, Kimberly Caceres, Joe Lara-Gardner, and Tony Wu. Shewmaker, having qualified in 2015 as an independent expenditure committee, failed to disclose the mass mailing on campaign statements, in violation of Government Code section 84211.

Count 7: Failure to Include True and Correct Sender Identification on Mass Mailings

Shewmaker, acting independently and at his own direction, produced and mailed over 200 pieces of a mass mailing on or around October 14, 2015 that advocated against the election of Johnson's opponent, Fred Sykes. Shewmaker failed to include a legitimate sender identification when it omitted reference to Shewmaker as the sender and instead referred to, "West Covina Voters," failed to include his address, and failed to include the words, "Paid for by," in violation of Government Code section 84305, subdivision (a) and Regulation 18435, subdivision (d).

Count 8: Failure to Include True and Correct Sender Identification on Mass Mailings

Shewmaker, acting independently and at his own direction, produced and mailed over 200 pieces of a mass mailing on or around October 26, 2015 that advocated against the election of Johnson's opponents, Kimberly Caceres, Joe Lara-Gardner, and Tony Wu. Shewmaker failed to include a legitimate sender identification when it omitted reference to Shewmaker as the sender and instead referred to, "Please Save Our Police," failed to include his address, and failed to include the words, "Paid for by," in violation of Government Code section 84305, subdivision (a) and Regulation 18435, subdivision (d).

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.³ Otherwise, hearing of this matter will be conducted before an ALJ alone pursuant to Section 11512, subdivision (a).

³ Reg. § 18361.5, subd. (b).

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

11 In the Matter of) FPPC No. 2015/2076
12)
13)
14) **ACCUSATION**
15)
16) (Gov. Code §11503)
17)
18)
19)
20) Respondents.

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

23 **JURISDICTION**

24 1. Complainant is the Enforcement Division of the Fair Political Practices Commission (the
25 “Commission”) and makes this Accusation in its official capacity and in the public interest.

26 2. The authority to bring this action is derived from Title 2, California Code of Regulations,
27 Sections 18361 and 18361.4, subdivision (e), and the statutory law of the State of California, specifically
28 including, but not limited to, 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 11. For contributions, including monetary or non-monetary, that total one hundred dollars or
2 more, the campaign statement must include the following information: full name of the source, street
3 address, occupation, employer, and the date and amount received during the reporting period.⁵ For
4 expenditures that total one hundred dollars or more, the campaign statement must include the following
5 information about the payee: full name, street address, the amount of each expenditure, and a brief
6 description of the what the expenditure was for.⁶ Additionally, the campaign must also disclose this
7 information for each “subvendor,” meaning any person who has provided consideration for an expenditure
8 of five hundred dollars or more during the reporting period to the payee.⁷

9 **B. Definition of Contribution and Expenditure**

10 12. Under the Act, contribution means a payment, a forgiveness of a loan, a payment of a loan
11 by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate
12 consideration is received or if it is clear from the surrounding circumstances that the payment is not made
13 for political purposes.⁸

14 13. Expenditure means a payment, a forgiveness of a loan, a payment of a loan by a third party,
15 or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that
16 it is not made for political purposes. An expenditure is made on the date the payment is made or on the
17 date consideration, if any, is received, whichever is earlier.⁹

18 14. Expenditure includes any monetary or nonmonetary payment made by any person (other
19 than candidates, controlled committees, political party committees, or political action committees) that is
20 used for communications that expressly advocate the nomination, election, or defeat of a clearly identified
21 candidate or candidates, or the qualification, passage or defeat of a clearly identified ballot measure.¹⁰

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26 ⁵ Section 84211, subd. (f).

27 ⁶ Section 84211, subd. (k).

28 ⁷ Section 84211, subd. (k)(6).

⁸ Section 82015.

⁹ Section 82025.

¹⁰ Section 82025, subd. (c).

1 **C. Campaign Record Keeping**

2 15. The treasurer and the candidate have a duty to maintain detailed accounts, records, bills,
3 and receipts necessary to prepare campaign statements and to establish that the statements were properly
4 filed.¹¹

5 **D. Reimbursement of Expenditures**

6 16. Expenditures made at the behest of the candidate may be reimbursed if the treasurer of
7 the committee is provided with a dated receipt and a written description of each expenditure prior to
8 reimbursement and the reimbursement is paid within 45 days after the expenditures are paid by the
9 person to be reimbursed.¹² When a candidate is notified of the expenditure, a candidate must report any
10 expenditure to be reimbursed both in the period in which the expenditures were accrued by the person
11 to be reimbursed and in the period in which the expenditures were reimbursed by the committee.¹³ If a
12 reimbursement is not paid within the time permitted, the expenditure must be reported as a nonmonetary
13 contribution received on the 45th day after the expenditure was paid for by the person to be reimbursed.¹⁴

14 **E. Requirements for Mass Mailings**

15 17. The Act prohibits candidates or committees from sending a mass mailing without
16 identifying the sender. A mass mailing means over two hundred substantially similar pieces of mail.¹⁵
17 The name, street address, and city of the responsible candidate, person, or committee must be on the
18 outside of each piece of mail.¹⁶ Additionally, the identification required in Section 84305 shall be
19 preceded by the words "paid for by."¹⁷

20 **F. Coordination**

21 18. A contribution is any payment, forgiveness of a loan, payment of a loan by a third party,
22 or an enforceable promise to make a payment, including non-monetary or in-kind contributions that are
23 made for political purposes for which a donor does not receive full and adequate consideration.¹⁸ A
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25 ¹¹ Section 84104. See also Reg. 18401.

26 ¹² Reg. 18526, subd. (a) and (b).

27 ¹³ Reg. 18526, subd. (c).

28 ¹⁴ Reg. 18526, subd. (d).

¹⁵ Section 82041.5.

¹⁶ Section 84305, subd. (a).

¹⁷ Reg. 18435 subd. (d).

¹⁸ Section 82015.

1 payment is made for political purposes if it is for the purpose of influencing or attempting to influence
2 the action of the voters for or against the nomination or election of a candidate or candidates or was
3 received by or made at the behest of a candidate or any agent thereof.¹⁹

4 19. In contrast, an independent expenditure is defined as an expenditure made in connection
5 with a communication which expressly advocates the election or defeat of a clearly identified candidate
6 or a communication where, taken as a whole and in context, unambiguously urges a particular result in
7 an election but which is not made to or at the behest of the affected candidate or committee.²⁰

8 20. Under the Act, there is a presumption that an expenditure funding a communication that
9 expressly advocates for the defeat of a clearly identified candidate is not independent of the candidate
10 for whose benefit the expenditure is made when it is made by an agent of the benefitted candidate in the
11 course of the agent's involvement in the current campaign.²¹ An agent is one who represents another in
12 dealings with third parties, such as a political consultant acting on behalf of a committee or candidate.²²

13 **G. Independent Expenditure Committee**

14 21. The definition of "committee" includes, but is not limited to, any person who directly or
15 indirectly makes independent expenditures totaling one thousand dollars or more in a calendar year.²³
16 Independent expenditure committees must file semiannual campaign statements if they have made
17 independent expenditures during the reporting period.²⁴ In those statements, the committee must comply
18 with the general reporting requirements in Section 84211.

19 **H. Candidate and Campaign Consultant Liability**

20 22. A candidate can be held jointly and severally liable with the committee for any violations
21 of the Act.²⁵ Any person who is compensated for services involving the planning, organizing, or
22 directing any activity regulated by this title shall be liable for violating the Act or for purposefully or
23 negligently causing another person to violate the Act.²⁶

24 ¹⁹ Reg. 18215.

25 ²⁰ Section 82031.

26 ²¹ Former Regs. 18225.7 and 18550.1 (repealed effective 12/9/2015, consolidated and amended into current Reg. 18225.7).

27 ²² California Civil Code Section 2295.

28 ²³ Section 82013.

²⁴ Section 84200, subd. (b).

²⁵ Sections 83116.5 and 91006.

²⁶ Section 83116.5.

1 committee names and false addresses in place of the sender identification, effectively concealing the
2 true source of the mailings.

3 29. On or around October 14, 2015, Shewmaker sent the first of the two mass mailings. The
4 front of the piece asks, "Which Fred Sykes is Running in 2015" and purports to compare the candidate's
5 campaign promises to the Sykes' actions when in office. Fred Sykes was running for City Council of
6 West Covina in 2015, the same race as Johnson. Sykes lost the election, coming in third place. The mass
7 mailing purports that Sykes does not keep his campaign promises and states that Sykes "wants to turn
8 West Covina into a sanctuary city."

9 30. The mass mailing purports to be sent by a committee called, "West Covina Voters"
10 (hereafter, this mass mailing will be referred to as the "West Covina Voters mailing"). This mass mailing
11 lacked the required "Paid for by" language, but did include an address and the language, "Not associated
12 with Fred Sykes or his campaign."

13 31. The purported address of the sender, 216 S. Citrus Ave, West Covina, CA 91791, is not
14 a valid committee address. A similar address belongs to a mail center, 24hr Anytime Mail Postal Center,
15 but the mail center does not have any record of a mailbox rental to the purported sender.

16 32. West Covina Voters is not a valid committee, having no statement of organization filed
17 with the Secretary of State and no assigned committee identification number.

18 33. The Enforcement Division obtained invoices that show Shewmaker hired a local vendor,
19 Chicas Graphics and Designs, to print 2,000 copies of a postcard for a total of \$215. The vendor provided
20 a copy of the invoice, a receipt of payment showing a credit card ending in 4077 was used, which the
21 evidence suggests is Shewmaker's, as well as related emails between the vendor and Shewmaker.

22 34. According to records from the West Covina office of the United States Postal Service,
23 Shewmaker used the mailing permit number 114 to send this mass mailing. This permit number belongs
24 to applicants J.C.S. Consulting, Shewmaker's fictitious business name, and to Caryn Shewmaker,
25 Shewmaker's wife. The permit allows qualifying mailings of 200 pieces or more to apply for a bulk
26 mailing rate and reduce the cost of mailing.

1 35. According to a postage statement produced by the West Covina Office of the United
2 States Postal Service, Caryn Shewmaker, signing on behalf of permit holder J.C.S. Consulting Services,
3 paid to send 2031 pieces of the West Covina Voters mailing for the cost of \$448.85.

4 36. Shewmaker initially denied being involved with the mass mailing, however, after being
5 presented with this evidence, Shewmaker admitted in a recorded interview that he had input into the
6 design, paid the printer, and paid for the postage for the West Covina Voters mailing.

7 37. On or around October 26, 2015, Shewmaker sent a second mass mailing. The front of the
8 piece states, "Follow the MONEY. Gives you the REAL story." The mass mailing goes on to name three
9 of the candidates also running in the 2015 West Covina City Council race: Kimberly Caceres, Joe Lara-
10 Gardner, and Tony Wu. Of the three named, only Tony Wu was successful and is presently serving on
11 the City Council. The mass mailing includes a bullet point list for each candidate and tells the reader not
12 to vote for any of the three candidates. The back of the mass mailing states, "Do you want to close our
13 Police and Fire Departments? Do you want new taxes on your utilities and homes? Do you really believe
14 anything these candidates tell you? If you said 'NO', then say 'NO' to these 3!"

15 38. The mass mailing purports to be sent by a committee called "Please Save Our Police"
16 (hereafter, this mass mailing will be referred to as the "Save Our Police mailing"). The mass mailing
17 lacked the required "Paid for by" language, but did include an address and the language, "Not associated
18 with the campaigns or individuals named in this flyer."

19 39. The sender address was for a mail center, located at 136 N. Grand Ave, West Covina,
20 CA 91791. The mail center had no record of a mailbox rental to the purported sender, "Please Save Our
21 Police."

22 40. Please Save Our Police is not a valid committee, having no statement of organization
23 filed with the Secretary of State and no assigned committee identification number.

24 41. The Enforcement Division obtained emails that show that Shewmaker hired a local
25 vendor, Chicas Graphics and Designs, to print copies of the Save Our Police mass mailing for \$130 and
26 indicated to the recipient of the email that Shewmaker would pay for the print job over the phone.

27 42. According to records from the West Covina office of the United States Postal Service,
28 Shewmaker used the mailing permit number 114 to mail this mass mailing.

1 43. According to a postage statement produced by the West Covina Office of the United
2 States Postal Service, Caryn Shewmaker, signing on behalf of permit holder JCS Consulting Services,
3 paid to send 982 pieces of the Save Our Police mailing for the cost of \$217.07.

4 44. Shewmaker initially denied being involved with the mass mailing, however, after being
5 presented with this evidence, Shewmaker admitted in a recorded interview that he participated in the
6 design, paid the printer, and paid for the postage for the Save Our Police mailing.

7 45. For both mass mailings, the postage statements show that precanceled stamps were
8 purchased and used to send both mass mailings. Precanceled stamps are special stamps used for certain
9 types of mailings, including marketing mail. This choice enabled the mass mailing to be sent without
10 the permit number, 114, on the front of each piece, as would normally be required when sending a bulk
11 mail.

12 **B. Shewmaker acted at the behest of or in coordination with the Committee and Johnson to**
13 **send two negative mass mailings with false sender identification during the 2015 General**
14 **Election.**

15 46. Shewmaker, in addition to serving as treasurer, provided consulting services to the
16 Johnson campaign and acted as the campaign manager. The Committee paid Shewmaker by check and
17 reported the expenditures on campaign statements. The checks were written out to Shewmaker, at times,
18 or to his fictitious business name, J.C.S. Consulting.

19 47. Shewmaker directed and made campaign expenditures and acted as a political advisor to
20 the candidate during the 2015 General Election cycle. For example, according to committee records and
21 emails produced by Johnson, Shewmaker advised Johnson on designing and distributing campaign door
22 hangers and business cards and on the candidate statement. Shewmaker also caused several mass
23 mailings, in addition to the two negative mass mailings identified above, to be sent by the Committee.
24 Shewmaker designed pro-Johnson mailings, paid the vendor to print the job, and paid directly for the
25 postage by using his permit number. On these mass mailings, the sender identification conformed with
26 the legal requirements and correctly identified Johnson's committee as the sender and the front of each
27 mailing included the permit number "114".
28

1 48. Johnson and Shewmaker assert that Shewmaker's association with the Johnson campaign
2 ended prior to when the negative mass mailings were sent. The Committee filed an amended statement
3 of organization on September 8, 2015, dated on September 3, 2015, showing that Shewmaker was
4 removed as the treasurer and that Johnson was serving as his own treasurer from that date forward.
5 Repeatedly, Shewmaker and Johnson asserted that Shewmaker was no longer involved with Johnson's
6 campaign after that point.

7 49. However, the evidence shows that Shewmaker continued to act as a paid political
8 consultant and provided additional services to the campaign after September 3, 2015.

9 50. According to emails provided by the vendor, Chicas Graphics and Design, on September
10 22 and 25, 2015, Shewmaker worked with Chicas Graphics and Design to order mass mailings for the
11 Johnson campaign. In an email to Bessie M. Escobar, the owner of Chicas Graphics and Design, and to
12 Johnson, Shewmaker attached graphics for a pro-Johnson mass mailing using the correct sender
13 identification and showing that it would be sent with Shewmaker's permit number 114 listed on the
14 piece. In the body of the email, Shewmaker wrote:

15 [Johnson] would like to have this printed 6x11 size.
16 He needs 7600 of these. Slightly more than the last printing.
17 I hope you can do it for the same price. [Johnson] will call you tomorrow.
18 Thanks,
19 JCS

20 51. On October 11 and 12, Shewmaker negotiated with Chicas Graphis and Design owner
21 Bessie M. Escobar, regarding a pro-Johnson postcard that he attached. This postcard included the correct
22 sender identification and included the permit number 114. The following thread, obtained from several
23 emails submitted by Escobar with the subject line "Re: Lloyd Mass mailing Postcard," were exchanged:

24 Shewmaker, 10/11/2015 at 10:31 AM:

25 Hi.
26 [Johnson] needs 3000 5.5x8.5 postcards, color on both sides. Can you do these for
27 260, as a prior order?
28 Thanks,
29 JCS

30 Shewmaker, 10/11/2015 at 8:13 PM:

31 [Johnson] needs 3000 of postcard 5.5x8.5 size color on both sides.

1 Can you do this for the same amount you did for me on this size \$260?
JCS

2 Shewmaker, 10/12/2015 at 8:05 PM:
3 For the 3000 is the price around \$200, not the \$260 which was for 5000?
4 Thanks.

5 Bessie M. Escobar, 10/12/15 at 8:05PM responded:
6 It is cheaper to do 5000 = \$260
7 And 3000 = \$250
8 [Signature line omitted]

9 Shewmaker, 10/12/2015 at 9:38 AM:
10 I wish I needed 5000. Only need 3000. Is there a little room, say \$225. These are
11 regular half sheet 5.5x8.5.

12 52. A screenshot provided to investigators by Johnson shows that Johnson received an email
13 from Shewmaker on October 21, 2015 with an attachment and with the subject line "FW: Oct Form
14 460", likely referencing the second pre-election campaign statement for the period ending October 17,
15 2015, a required campaign disclosure statement filed prior to an election. By that time, Johnson had
16 already filed a pre-election statement for the period ending September 19, 2015 and signed as the
17 treasurer. When asked to produce communications, Johnson failed to include this email in his
18 production.

19 53. Despite asserting that Shewmaker was no longer working for the campaign, the evidence
20 detailed above shows that the Committee continued to receive services from Shewmaker. Additionally,
21 the Committee did not issue a final payment to J.C.S. Consulting until November 1, 2015 for \$2,163.44
22 and reported this payment on a campaign statement filed after the election.

23 54. On or around August 13, 2015, Johnson received an email from a campaign contributor,
24 Jerri Potras ("Potras") stating that he could no longer support Johnson's candidacy due to Shewmaker's
25 involvement in Johnson's campaign. Potras' concern was that Shewmaker attacked other Republicans
26 and led to Democrats being elected. Potras included an email from Shewmaker to fellow city council
27 candidate, Joe Gardner, wherein Shewmaker questioned Gardener's acceptance of money from
28 developers and special interest, alleged that Gardener was not a resident of West Covina, and asked for
more information about Gardener's volunteering and past political positions. The email also indicated
that other local Republicans were copied on the email.

1 55. Johnson also received an email from Steve Cox (“Cox”) on or around September 5, 2015
2 to Johnson and others wherein Cox asked if anyone knew who was responsible for creating a negative
3 website on Joe Gardner. Cox accused Shewmaker. The Enforcement Division confirmed through the
4 website domain company that the website domain was paid for by Shewmaker.

5 56. In his response on September 6, 2015, Johnson assured Cox and 8 other recipients that
6 Shewmaker was no longer the treasurer for his committee. In an email to Cox alone, Johnson stated:

7
8 “Steve. I must tell you John Shewmaker is no longer connected to my campaign as
9 my treasure [sic]. I haven’t talked to john in Two weeks. [sic] I he [sic] you find the
10 person who is responsible for any negative campaigning against anyone. One thing
11 for sure my campaign will not tolerate any negative campaigning. Lloyd”

12 57. This evidence shows that Johnson was motivated to publicly separate himself from
13 Shewmaker due to pressure from those in his local party or political circle.

14 58. But records from the Committee, Johnson and the Committee’s vendors show that
15 Shewmaker continued to act as an agent for the Committee, including when he paid for and sent the two
16 negative mass mailings.

17 59. Per former Regulations 18550.1 and 18225.7, which were both in effect at the time,
18 Shewmaker’s actions are presumed to be coordinated with or made at the behest of Johnson and the
19 Committee.

20 60. Because the true source of the mass mailings was concealed, Johnson, who had vowed
21 not to run a negative campaign, was able to avoid association with the two mass mailings attacking many
22 of his competitors in the race for city council.

23 61. Johnson’s campaign benefited from the two mass mailings, as both mass mailings
24 attacked four of five competitors in the race for city council. The only candidate not included, Brian A.
25 Guterrez, came in last place and received only 8.29% of the vote.

26 62. The evidence shows that Shewmaker was an agent of the Committee and Johnson and
27 that Shewmaker sent the two negative mass mailings at the behest of or in coordination with the
28 Committee and Johnson. Therefore, the two negative mass mailings were attributable to the Committee,

1 and the Committee, Johnson, and Shewmaker had a duty to include the Committee's name and the "Paid
2 for by" language on the two negative mass mailings.

3 **C. The Committee and Johnson had a duty to report but failed to disclose the two negative**
4 **mass mailings during the 2015 General Election.**

5 63. The evidence that the two negative mass mailings were attributable to the Committee and
6 Johnson, therefore, the Committee and Johnson had a duty to report the two mass mailings sent by
7 Shewmaker on the Committee's campaign disclosure statements.

8 64. According to campaign statements filed by the Committee and Johnson and according to
9 committee records, Shewmaker was paid by the Committee during the election cycle for his services as
10 a consultant and to reimburse Shewmaker for expenditures made as an agent of the Committee.

11 65. Shewmaker made payments using his personal funds to vendors to produce the two mass
12 mailings at issue. Due to the Committee's, Johnson's and Shewmaker's failure to maintain records to
13 substantiate campaign disclosure reporting, it is difficult to determine the particular services and
14 reimbursements Shewmaker was paid for during the election cycle.

15 66. When asked to produce committee records related to payments made to Shewmaker, the
16 Committee and Johnson produced canceled checks to Shewmaker. For the last payment of \$2,163 from
17 the Committee to Shewmaker, dated October 26, 2015, Shewmaker included an invoice in an email.
18 However, the invoice only listed services, such as "robocall" or "mass mailing" and failed to include
19 receipts or to distinguish payments for personal services. No receipts were sent with this email, as
20 required by the Act in order to reimburse an agent of the Committee.

21 67. The Committee and Johnson did not report any payments made by Shewmaker on behalf
22 of the Committee. According to emails produced by Johnson, Shewmaker purchased things such as
23 business cards, door hangers, and mass mailings on behalf of the Committee and was reimbursed for
24 these expenditures in lump sums and without producing receipts. The Committee reported this activity
25 as a payment to Shewmaker and described this expenditure as campaign consulting services. The
26 Committee's campaign reporting did not disclose subvendor payments, as required for payments over
27 \$500.

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1 68. The lack of record keeping makes it impossible to determine whose funds were used to
2 purchase the two mass mailings at issue.

3 69. However, as the agent of the Committee, Shewmaker's actions that were in support of
4 Johnson's candidacy can be attributed to the Committee. A communication is presumed to be
5 coordinated when the person making the expenditure for the communication is an agent of the candidate
6 in the course of the agent's involvement in the current campaign. When coordinated, the communication
7 expressly advocating for the defeat of an opposing candidate, is attributable to the Committee and is a
8 reportable activity.

9 70. By law, the Committee could reimburse Shewmaker for the political expenditure within
10 45 days after production of receipts and the Committee must report the reimbursement to Shewmaker
11 and any subvendor payments over \$500. If the reimbursement is not made within 45 days, the
12 expenditure is considered a nonmonetary contribution from Shewmaker by law and must be reported as
13 such. Therefore, the Committee had a duty to report the two mass mailings at issue on campaign
14 statements as nonmonetary contributions.

15 71. The Committee and Johnson timely filed several campaign statements to report the
16 contributions received and the expenditures made in support of Johnson's candidacy. The statements
17 filed did not disclose any payments for the two mass mailings at issue.

18 **D. Shewmaker and Johnson deny coordination, however, they have been unable to produce**
19 **evidence sufficient to overcome the presumption of coordination.**

20 72. Johnson maintains that he was unaware of Shewmaker's activities. In response to this
21 investigation, Johnson stated that he split with Shewmaker because of their differing views related to
22 Measure C, a local ballot measure that was being voted on during the same election. Shewmaker
23 confirmed that he was against Measure C, while Johnson was for Measure C.

24 73. However, the evidence suggests that Johnson's claim that he did not know or coordinate
25 with Shewmaker is not credible. The timing of Shewmaker's departure suggests a deliberate attempt to
26 distance Johnson from Shewmaker publicly in response to pressure from local political party members.
27 Johnson has repeatedly asserted that Shewmaker did not work for his committee after the September
28 "departure", but the evidence shows that Shewmaker continued to act as a consultant and was paid for

1 work conducted after September. The lack of records for Johnson's Committee, including records
2 related to payments to Shewmaker, make it impossible to substantiate filed campaign disclosures and
3 obscures the details of Shewmaker's campaign activity. In addition, Johnson has made public statements
4 regarding his promise to keep his campaign free of negativity suggests that Johnson has a motive to
5 deny knowing or condoning Shewmaker's activities. In addition, in an interview on October 17, 2016,
6 Shewmaker put forward a different reason for his departure from the Johnson campaign. Shewmaker
7 stated that he left because of the attacks on Johnson for being affiliated with Shewmaker.

8 74. Shewmaker has been unable to present consistent credible testimony or evidence
9 regarding his activities.

10 75. At the beginning of the investigation, Shewmaker denied involvement in designing,
11 producing, or paying for the two mass mailings at issue. In an interview with Special Investigator Simon
12 Russell ("Spec. Inv. Russell") on February 3, 2016, Shewmaker stated, "I was not involved."

13 76. In a subsequent email exchange with Spec. Inv. Russell beginning February 24, 2016,
14 wherein Shewmaker asked the investigator to submit questions by email as opposed to being interviewed
15 by phone, Shewmaker refused to give a straightforward answer when asked to confirm whether or not
16 he had a credit card from Mastercard ending in 4077.

17 77. In an interview with Special Investigator Garrett Micheels ("Spec. Inv. Micheels") on
18 October 17, 2016, Shewmaker asserted that he was not a campaign manager, but admitted his duties
19 consisted of putting out signs, financial reporting, designing flyers and other advertisements, working
20 with vendors to print and mail mass mailings.

21 78. In this interview, Shewmaker changed his story for the first time and admitted that he
22 had a part in the designing the two mailers and that he had them printed and sent. However, he asserted
23 that he produced and distributed the mass mailings at issue on behalf of someone named "Robert
24 Hernandez" ("Hernandez"). He stated that Hernandez knew of Shewmaker from his public comments
25 at city council meetings. According to Shewmaker, Hernandez reimbursed Shewmaker in cash and
26 Shewmaker stated he reported this payment on his taxes.

1 79. Shewmaker stated he could substantiate this arrangement with documents and would
2 provide the contact information for Hernandez, however, Shewmaker has failed to produce any
3 additional information or documentation to assist in locating this individual.

4 80. At the Probable Cause Conference, Shewmaker again deviated from his prior two stories
5 and asserted that he produced and distributed the mass mailings at issue for an agent of Brian Gutierrez,
6 the only other candidate not featured in the two mass mailings. However, he produced no documentation
7 or evidence to support this claim.

8 81. The Gutierrez committee's filed campaign statements do not show any connection to
9 Shewmaker or to the vendor used for the mass mailings at issue. Gutierrez hired a campaign consultant
10 firm to support his candidacy. The consultants hired by Gutierrez had no record of a Hernandez ever
11 working for their business.

12 82. Based on his changing testimony and overall refusal to cooperate with the investigation,
13 the Enforcement Division does not find Shewmaker's testimony credible.

14 83. Therefore, there is insufficient evidence to overcome to the presumption that Shewmaker
15 coordinated with or was operating at the best of the Committee and Johnson when he designed and sent
16 the two negative mass mailings.

17 **E. In the alternative, the two mass mailings at issue were independent expenditures made by**
18 **Shewmaker, and Shewmaker failed to include accurate sender identification, failed to file**
19 **campaign statements, and failed to report activity on campaign statements.**

20 84. The law provides that activities of agents are presumptively coordinated with or made at
21 the behest of the candidate that the agent worked for and when the activity benefits the candidate.
22 Following an investigation, the Enforcement Division found that Respondents Shewmaker and Johnson
23 failed to rebut this presumption. But, if there is a finding that Shewmaker did not coordinate with
24 Johnson when he produced the two mass mailings at issue, the Enforcement Division asks for a finding
25 that Shewmaker's activities were independent expenditures and that he is individually liable for failing
26 to include a legitimate sender identification on the two mass mailings and that he failed to disclose the
27 activity on campaign statements.

28 i. Shewmaker qualified as an independent expenditure committee.

1 85. Shewmaker admitted to spending more than \$1,000 on independent expenditures in the
2 2015 calendar year. He filed as an independent expenditure committee on or around February 1, 2016,
3 disclosing that from January 1, 2015 through December 31, 2015, he spent \$1,193.26 on robocalls, signs,
4 a mass mailing, and postage that expressed opposition to Measure C, a local ballot initiative.

5 86. On November 2, 2015, Shewmaker reported that he spent \$1,130.50 to oppose Measure
6 C on or around October 30, 2015. The description of the expenditure read, "Automated call, signs,
7 mailers, postage."

8 87. On his statement for 2015, Shewmaker failed to disclose any mail piece he sent
9 supporting or opposing candidates.

10 88. Shewmaker's No on Measure C mass mailing included Shewmaker's address as the
11 committee address, but misnamed the source as being paid for by "No on Measure C," instead of
12 Shewmaker's own name, as would be required for an independent expenditure.

13 ii. Shewmaker failed to include legitimate sender identification on the two mass
14 mailings that opposed Johnson's opponents.

15 89. Shewmaker admitted to making the payments to the vendor that printed the two mass
16 mailings opposing candidates.

17 90. Shewmaker's wife signed for the postage on behalf of Shewmaker's fictitious business
18 name, J.C.S. Consulting, and utilized Shewmaker's permit number to mail the two mass mailings at the
19 bulk rate.

20 91. Both of the mass mailings proclaim to not be affiliated with the candidates that appear
21 on the mass mailing, as is required when producing an independent expenditure.

22 92. Shewmaker claims that he was merely a vendor operating as an agent on behalf of another
23 and that it was not for Johnson. However, this is not credible for several reasons. First, Shewmaker
24 initially denied involvement. Second, Shewmaker claimed he was hired by a stranger, Hernandez, who
25 approached him because of Shewmaker's comments at city council meetings. He could not produce any
26 additional information about Hernandez, such as contact information or proof of payment or explain
27 why Hernandez was motivated to hire Shewmaker for this purpose. Third, Shewmaker has since claimed
28 that he operated on behalf of an agent for another candidate, Brian Gutierrez.

1 93. The views of the two mass mailings opposing candidates are consistent with
2 Shewmaker's personal political views, as evidenced by his public comment and other public writings.

3 94. As the two mass mailings were produced and paid for by Shewmaker, they were his
4 independent expenditures. Shewmaker was required to include legitimate sender identification. Each
5 mass mailing should have included, "Paid for by John Shewmaker." Instead, Shewmaker included
6 names including, "No on Measure C," "Please Save Our Police," and "West Covina Voters."

7 iii. Shewmaker failed to accurately and fully disclose activity on campaign statements.

8 95. Though Shewmaker disclosed activity related to his opposition to Measure C, he failed
9 to disclose information related to the two mass mailings opposing candidates, including but not limited
10 to how much was spent, when he spent the money, or who he made payments to.

11 **PROCEDURAL HISTORY**

12 96. This case was opened in response to multiple complaints, from a candidate running against
13 Johnson and the local filing officer, received by the Enforcement Division regarding negative mass
14 mailings attacking candidates in the city council race that lacked a valid committee disclaimer.

15 97. The Enforcement Division initiated an administrative action against the Committee,
16 Johnson, and Shewmaker in this matter by serving a packet containing a cover letter, a Report in Support
17 of a Finding of Probable Cause ("PC Report"), a fact sheet regarding probable cause proceedings, selected
18 sections of the Government Code regarding probable cause proceedings for the Commission, and selected
19 regulations of the Commission regarding probable cause proceedings.

20 98. The Committee, Johnson, and Shewmaker were served with the PC Report on or about
21 July 27, 2018 via substituted personal service to Johnson and Shewmaker. The information contained in
22 the PC Report packet advised the Committee, Johnson, and Shewmaker that they had 21 days in which
23 to request a probable cause conference and/or to file a written response to the PC Report.

24 99. Johnson and Shewmaker requested Discovery pursuant to Regulation 18361.4,
25 subdivision (c)(2). Discovery was served to Johnson on September 20, 2018 and to Shewmaker on
26 October 1, 2018. An addendum to discovery was served, by email, on December 17, 2018.

27 100. On January 7, 2019, Shewmaker requested a Probable Cause Conference. No written
28 response was submitted by either Shewmaker or Johnson.

1 101. A Probable Cause conference was held on April 3, 2019 at 1:00PM. The matter was heard
2 by Hearing Officer Jack Woodside. Johnson and Shewmaker appeared in pro per and participated by
3 phone. Commission Counsel Theresa Gilbertson and Special Investigator Garrett Micheels were present
4 on behalf of the Commission.

5 102. On or about April 10, 2019, the Hearing Officer issued an order finding, based on the facts
6 presented in the Probable Cause Report and presented by the parties during the Probable Cause
7 Conference, that there was probable cause to believe the Committee, Johnson, and Shewmaker violated
8 the Act and directed the Enforcement Division to issue an accusation against the Committee, Johnson,
9 and Shewmaker in accordance with the finding. The Committee, Johnson, and Shewmaker were served
10 with the order by means of U.S. Mail on April 11, 2019, as indicated by the proof of service.

11 **VIOLATIONS**

12 The Enforcement Division alleges, under the coordination theory of the case, the following violations:

13 **Count 1 – The Committee and Johnson**

14 **Failure to Report a Contribution or Expenditure on a Campaign Statement**

15 103. Complainant incorporates paragraphs 1 – 102 of this Accusation, as though completely
16 set forth here.

17 104. Shewmaker, acting as an agent of the Committee and Johnson, produced and mailed a
18 mass mailing on or around October 14, 2015 on behalf of the Committee and Johnson that advocated
19 against the election of Johnson’s opponent, Fred Sykes.

20 105. The Committee and Johnson had a duty to report this political activity on campaign
21 statements.

22 106. The Committee and Johnson failed to report this political activity on the campaign
23 statement for the reporting period ending October 17, 2015.

24 107. By failing to report the political activity, the Committee and Johnson violated
25 Government Code section 84211.

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1 117. By including a misleading and inaccurate sender identification and not including the
2 words, "Paid for by," the Committee, Johnson, and Shewmaker violated Government Code section
3 84305, subdivision (a) and Regulation 18435, subdivision (d).

4 **Count 4 – The Committee, Johnson, and Shewmaker**

5 **Failure to Include True and Correct Sender Identification on Mass Mailings**

6 118. Complainant incorporates paragraphs 1 – 117 of this Accusation, as though completely
7 set forth here.

8 119. Shewmaker, acting as an agent of the Committee and Johnson, produced and mailed over
9 200 pieces of a mass mailing on or around October 26, 2015, on behalf of the Committee and Johnson
10 that advocated against the election of Johnson's opponents, Kimberly Caceres, Joe Lara-Gardner, and
11 Tony Wu.

12 120. The Committee, Johnson, and Shewmaker had a duty to include the sender
13 identification, "Paid for by Lloyd A Johnson for West Covina City Council 2015," and the address of
14 the Committee.

15 121. The Committee, Johnson, and Shewmaker failed to include a legitimate sender
16 identification when it omitted reference to the Committee and instead referred to, "Please Save Our
17 Police," failed to include the address of the Committee, and failed to include the words, "Paid for by."

18 122. By including a misleading and inaccurate sender identification and not including the
19 words, "Paid for by," the Committee, Johnson, and Shewmaker violated Government Code section
20 84305, subdivision (a) and Regulation 18435, subdivision (d).

21
22 The Enforcement Division alleges the following violations as in the alternative, as discussed
23 above:

24 **As to Shewmaker, only**

25 **Count 5**

26 **Failure to Report an Independent Expenditure on a Campaign Statement**

27 123. Complainant incorporates paragraphs 1 – 122 of this Accusation, as though completely
28 set forth here.

1 124. Shewmaker, acting independently and at his own direction, produced and mailed over
2 200 pieces of a mass mailing on or around October 14, 2015 that advocated against the election of
3 Johnson's opponent, Fred Sykes.

4 125. In 2015, Shewmaker qualified as an independent expenditure committee, having spent
5 \$1,000 on independent expenditures in 2015.

6 126. Shewmaker had a duty to report the mass mailing sent on or around October 14, 2015 as
7 an independent expenditure on campaign statements.

8 127. Shewmaker failed to disclose this political activity on campaign statements.

9 128. By failing to disclose the political activity, Shewmaker violated Government Code
10 section 84211.

11 **Count 6**

12 **Failure to Report an Independent Expenditure on a Campaign Statement**

13 129. Complainant incorporates paragraphs 1 – 128 of this Accusation, as though completely
14 set forth here.

15 130. Shewmaker, acting independently and at his own direction, produced and mailed over
16 200 pieces of a mass mailing on or around October 26, 2015 that advocated against the election of
17 Johnson's opponents, Kimberly Caceres, Joe Lara-Gardner, and Tony Wu.

18 131. In 2015, Shewmaker qualified as an independent expenditure committee, having spent
19 \$1,000 on independent expenditures in 2015.

20 132. Shewmaker had a duty to report the mass mailing sent on or around October 26, 2015 as
21 an independent expenditure on campaign statements.

22 133. Shewmaker failed to disclose this political activity on campaign statements.

23 134. By failing to disclose the political activity, Shewmaker violated Government Code
24 section 84211.

25 **Count 7**

26 **Failure to Include True and Correct Sender Identification on Mass Mailings**

27 135. Complainant incorporates paragraphs 1 – 134 of this Accusation, as though completely
28 set forth here.

1 136. Shewmaker, acting independently and at his own direction, produced and mailed over
2 200 pieces of a mass mailing on or around October 14, 2015 that advocated against the election of
3 Johnson's opponent, Fred Sykes.

4 137. Shewmaker had a duty to include the sender identification, "Paid for by John
5 Shewmaker," on the mass mailing and to include his address.

6 138. Shewmaker failed to include a legitimate sender identification when it omitted reference
7 to Shewmaker as the sender and instead referred to, "West Covina Voters," failed to include his address,
8 and failed to include the words, "Paid for by."

9 139. By including a misleading and inaccurate sender identification and not including the
10 words, "Paid for by," Shewmaker violated Government Code section 84305, subdivision (a) and
11 Regulation 18435, subdivision (d).

12 **Count 8**

13 **Failure to Include True and Correct Sender Identification on Mass Mailings**

14 140. Complainant incorporates paragraphs 1 – 139 of this Accusation, as though completely set
15 forth here.

16 141. Shewmaker, acting independently and at his own direction, produced and mailed over 200
17 pieces of a mass mailing on or around October 26, 2015 that advocated against the election of Johnson's
18 opponents, Kimberly Caceres, Joe Lara-Gardner, and Tony Wu.

19 142. Shewmaker had a duty to include the sender identification, "Paid for by John Shewmaker,"
20 on the mass mailing and to include his address.

21 143. Shewmaker failed to include a legitimate sender identification when it omitted reference
22 to Shewmaker as the sender and instead referred to, "Please Save Our Police," failed to include his address,
23 and failed to include the words, "Paid for by."

24 144. By including a misleading and inaccurate sender identification and not including the words,
25 "Paid for by," Shewmaker violated Government Code section 84305, subdivision (a) and Regulation
26 18435, subdivision (d).

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1 **MITIGATING OR EXCULPATORY FACTORS**

2 145. Johnson denies coordinating with Shewmaker to produce the two mass mailings that
3 opposed Johnson's competitors in the race for city council.

4 146. Shewmaker denies coordinating with Johnson.

5 147. Shewmaker was listed as the Committee's treasurer until part way through the campaign
6 on the Committee's statement of organization. As Shewmaker ceased his duties as treasurer before the
7 first statements were due, Johnson filed his own campaign statements in connection with the November
8 3, 2015 General Election.

9 148. Shewmaker contends that he was merely acting as a vendor and should not be held liable
10 for the violations alleged herein.

11 149. The Committee, Johnson, and Shewmaker have no prior history of enforcement actions.

12 **AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS**

13 150. Shewmaker knew the requirements to include true and correct sender identification.
14 During the 2015 General Election, he served as treasurer for three committees, including two candidates
15 for board member of the West Covina Unified School District. He also served as a campaign consultant
16 for the three committees and sent multiple mass mailings that included conforming sender identification.

17 151. The mass mailings at issue were sent with false and misleading sender identifications.
18 Furthermore, they were sent using precanceled stamps, allowing the mass mailings to be sent without
19 the imprint showing Shewmaker's permit number, 114, on the outside of each piece. This further
20 concealed the true source of the mass mailings and is a departure from other mass mailings that
21 Shewmaker was responsible for during that election cycle. These actions show that there was intention
22 to conceal, deceive, and mislead the public of who was the true sender of the two mass mailings.

23 152. Furthermore, Shewmaker's experience as a consultant, his other mass mailings during
24 the election cycle, the style of misleading sender identification, and the use of precanceled stamps
25 demonstrate that the violations were deliberate, and not negligent or inadvertent.

26 153. By failing to include legitimate sender identification, the Respondents caused great
27 public harm when sending highly negative content without claiming responsibility for it or disclosing
28 the activity on campaign statements. .

1 154. Johnson and Shewmaker previously worked together during Johnson's 2013
2 unsuccessful candidacy for City Council.

3 155. Shewmaker has been uncooperative during the investigation and has not been truthful to
4 investigators, including changing his story about who was responsible for the activity referenced herein.

5 156. Johnson was ultimately successful and is presently in office.

6 157. Of the subjects targeted in the two negative mass mailings, only Tony Wu was successful
7 in his candidacy. Joe Lara-Gardner, Kimberly Caceres, and Fred Sykes were unsuccessful.

8 158. Neither Johnson, nor Shewmaker, have filed amendments to provide full disclosure of
9 the political activity.

10
11 **PRAYER**

12 WHEREFORE, Complainant prays as follows:

- 13 1. That the Fair Political Practices Commission hold a hearing pursuant to Section 83116 and
14 Regulation 18361.5, and,
- 15 2. At such hearing find that the Committee, Lloyd A Johnson for West Covina City Council
16 2015, Lloyd Johnson, and John Shewmaker, violated the Act as alleged herein under the
17 theory of coordination;
- 18 3. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
19 order the Committee and Johnson to pay a monetary penalty of up to \$5,000 for the violation
20 of the Political Reform Act alleged in **Count 1**;
- 21 4. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
22 order the Committee and Johnson to pay a monetary penalty of up to \$5,000 for the violation
23 of the Political Reform Act alleged in **Count 2**;
- 24 5. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
25 order the Committee, Johnson, and Shewmaker to pay a monetary penalty of up to \$5,000
26 for the violation of the Political Reform Act alleged in **Count 3**;

- 1 6. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
2 order the Committee, Johnson, and Shewmaker to pay a monetary penalty of up to \$5,000
3 for the violation of the Political Reform Act alleged in **Count 4**;
- 4 7. In the alternative, if there is a finding that there was no coordination between the Committee
5 and Johnson with Shewmaker, that at such hearing find that the John Shewmaker violated
6 the Act as alleged herein under the theory of independent expenditure;
- 7 8. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
8 order Shewmaker to pay a monetary penalty of up to \$5,000 for the violation of the Political
9 Reform Act alleged in **Count 5**;
- 10 9. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
11 order the Shewmaker to pay a monetary penalty of up to \$5,000 for the violation of the
12 Political Reform Act alleged in **Count 6**;
- 13 10. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
14 order the Shewmaker to pay a monetary penalty of up to \$5,000 for the violation of the
15 Political Reform Act alleged in **Count 7**;
- 16 11. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),
17 order the Shewmaker to pay a monetary penalty of up to \$5,000 for the violation of the
18 Political Reform Act alleged in **Count 8**;
- 19 12. That the Fair Political Practices Commission, pursuant to Regulation 18361.5, subdivision
20 (d), consider the following factors in framing a proposed order following a finding of a
21 violation pursuant to Section 83116: (1) the seriousness of the violation; (2) the presence or
22 absence of any intention to conceal, deceive or mislead; (3) whether the violation was
23 deliberate, negligent or inadvertent; (4) whether the violator demonstrated good faith by
24 consulting the Commission staff or any other government agency in a manner not
25 constituting a complete defense under Section 83114, subdivision (b); (5) whether the
26 violation was isolated or part of a pattern and whether the violator has a prior record of
27 violations of the Act or similar laws; and (6) whether the violator, upon learning of a
28 reporting violation, voluntarily filed amendments to provide full disclosure.

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

Dated: 10 Oct 19


Galena West
Chief of Enforcement
Fair Political Practices Commission