



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

From: Thomas Jones, Executive Director
Galena West, Chief of Enforcement
Christopher Burton, Senior Commission Counsel

Date: January 3, 2020

RE: Assignment of Hearing to Administrative Law Judge

Case Name: Albert Robles for Carson City Council 2013 and Albert Robles; FPPC Case No. 2017/1164

I. INTRODUCTION

Respondent Albert Robles (“Robles”) is the current mayor of the City of Carson. His current term expires in 2020. Robles also served as a member of the Board of the Water Replenishment District of Southern California (the “Water Board”) from 1992 to 2018. Albert Robles for Carson City Council 2013 (the “Committee”) is Robles’ candidate-controlled committee created in conjunction with his successful bid for election to the Carson City Council in the March 5, 2013 General Municipal Election. Robles also serves as the Committee’s treasurer.

The Committee and Robles failed to timely file four semiannual campaign statements, as detailed in the Amended Accusation attached to this memorandum. The Committee and Robles filed a notice of defense in response to the Amended Accusation and requested an administrative hearing.

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

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

This memorandum is submitted to each member of the Commission pursuant to 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 this administrative action against the Committee and Robles by serving a Report in Support of a Finding of Probable Cause (the “First PC Report”) on July 26, 2018. Neither the Committee nor Robles responded to the First PC Report.

By means of an Ex Parte Request for a Finding of Probable Cause and on Order that an Accusation be Prepared and Served (the “Ex Parte Request”), dated August 24, 2018, the Enforcement Division submitted the matter to the Hearing Officer for a determination of probable cause. On or about August 27, 2018, the Hearing Officer issued an order finding that there was probable cause to believe the Committee and Robles violated the Act, as alleged in the First PC Report, and directed the Enforcement Division to issue an accusation against the Committee and Robles in accordance with the finding.

The Enforcement Division served an Accusation on the Committee and Robles on November 15, 2018 by personal service. Robles later returned a Notice of Defense dated October 19, 2018 to the Enforcement Division, requesting an administrative hearing on this matter.

The Enforcement Division served an additional Report in Support of a Finding of Probable Cause (the “Second PC Report”), which added three additional campaign non-filing violations, on the Committee and Robles on April 19, 2019. In response to the Second PC Report, the Committee and Robles requested discovery pursuant to Regulation 18361.4, subdivision (c)(2). The Enforcement Division prepared a response to the discovery request, which was served on the Committee and Robles on May 16, 2019. No written response to the Second PC Report was submitted by the Committee or Robles.

On July 16, 2019, the Fair Political Practices Commission conducted a probable cause conference on the matter. Senior Commission Counsel Christopher Burton appeared on behalf of the Enforcement Division. Robles appeared on behalf of himself and the Committee. The hearing officer for the probable cause conference, Senior Commission

Counsel Jack Woodside, determined probable cause existed to believe that the Committee and Robles violated the Act as alleged in the Second PC Report. As a result, Mr. Woodside issued an order dated July 19, 2019 finding probable cause and instructing the Enforcement Division to issue an accusation against the Committee and Robles in accordance with the finding.

On October 4, 2019, the Commission's Chief of Enforcement Galena West issued an Amended Accusation against the Committee and Robles. Robles later returned a Notice of Defense dated October 19, 2019 to the Enforcement Division, 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 AMENDED ACCUSATION

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

As to the Committee and Robles:

Count 1: Failure to Timely File Semiannual Campaign Statement

The Committee and Robles failed to timely file a semiannual campaign statement for the reporting period of January 1, 2017 through June 30, 2017, in violation of Government Code section 84200, subdivision (a).

Count 2: Failure to Timely File Semiannual Campaign Statement

The Committee and Robles failed to timely file a semiannual campaign statement for the reporting period of January 1, 2018 through June 30, 2018, in violation of Government Code section 84200, subdivision (a).

¹ See Gov. Code § 11512, subd. (a).

² See Gov. Code § 11512, subd. (b).

Count 3: Failure to Timely File Semiannual Campaign Statement

The Committee and Robles failed to timely file a semiannual campaign statement for the reporting period of July 1, 2018 through December 31, 2018, in violation of Government Code section 84200, subdivision (a).

As to Robles:

Count 4: Failure to Timely File Semiannual Campaign Statement

Robles failed to timely file a semiannual campaign statement for the reporting period of January 1, 2018 through June 30, 2018 in conjunction with his position on the Water Board, in violation of Government Code section 84200, subdivision (a).

VI. CONCLUSION

If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, likely to take place in Los Angeles, the matter will be scheduled for a hearing before the Commission when an ALJ is available.³ Otherwise, hearing of this matter will be conducted before an ALJ alone pursuant to Government Code Section 11512, subdivision (a).

³ Reg. § 18361.5, subd. (b).

1 GALENA WEST
Chief of Enforcement
2 CHRISTOPHER BURTON
Senior Commission Counsel
3 **FAIR POLITICAL PRACTICES COMMISSION**
1102 Q Street, Suite 3000
4 Sacramento, CA 95811
Telephone: (916) 322-5660

5 Attorneys for Complainant
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7

8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10 In the Matter of) FPPC No. 17/1164
11)
12)
13 ALBERT ROBLES FOR CARSON CITY) **AMENDED ACCUSATION**
COUNCIL 2013 and ALBERT ROBLES,)
14)
15 Respondents.) (Gov. Code § 11503)
16)

17 Complainant, the Enforcement Division of the Fair Political Practices Commission, after a
18 finding of probable cause pursuant to Government Code Section 83115.5, alleges the following:

19 **JURISDICTION**

20 1. Complainant is the Enforcement Division of the Fair Political Practices Commission
21 (the "Commission") and makes this Amended Accusation in its official capacity and in the public
22 interest.

23 2. The authority to bring this action is derived from Title 2, California Code of
24 Regulations, Sections 18361 and 18361.4, subdivision (e), and the statutory law of the State of
25 California, specifically including, but not limited to, Government Code Sections 83111, 83116, and
26 91000.5, which assign to the Enforcement Division the duty to administer, implement, and enforce the
27 provisions of the Political Reform Act, found at Government Code Sections 81000 through 91014.

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1 11. A “candidate” includes, in relevant part, an individual who is listed on the ballot for
2 election to any elective office.⁶ An individual who becomes a candidate shall retain his or her status as
3 a candidate until such time as that status is terminated.⁷

4 12. A “committee” includes any person or combination of persons who receive
5 contributions totaling \$1,000 or more in a calendar year,⁸ commonly known as a “recipient committee.”

6 **B. Duty to File Campaign Statements**

7 13. The Act requires elected officers, candidates, and committees to file campaign
8 statements at specific times disclosing information regarding campaign contributions received and
9 expenditures made by the campaign committees.⁹

10 14. Elected officers, candidates, and committees must file semiannual campaign statements
11 each year no later than July 31 for the reporting period ending on June 30, and no later than January 31
12 of the following year for the reporting period ending December 31.¹⁰ When a filing deadline falls on a
13 Saturday, Sunday, or official state holiday, the filing deadline is extended to the next business day.¹¹

14 **C. Factors to be Considered by the Fair Political Practices Commission**

15 15. In framing a proposed order following a finding of a violation pursuant to Section 83116,
16 the Commission and the administrative law judge shall consider all the surrounding circumstances
17 including but not limited to: (1) The seriousness of the violation; (2) The presence or absence of any
18 intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or
19 inadvertent; (4) Whether the violator demonstrated good faith by consulting the Commission staff or any
20 other government agency in a manner not constituting a complete defense under Section 83114(b); (5)
21 Whether the violation was isolated or part of a pattern and whether the violator has a prior record of
22 violations of the Act or similar laws; and (6) Whether the violator, upon learning of a reporting
23 violation, voluntarily filed amendments to provide full disclosure.¹²

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25 _____
26 ⁶ Section 82007.

27 ⁷ Section 82007.

28 ⁸ Former Section 82013, subd. (a).

⁹ Sections 84200 through 84225.

¹⁰ Section 84200, subd. (a).

¹¹ Regulation 18116.

¹² Regulation 18361.5, subd. (d).

GENERAL FACTS

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2 16. Complainant incorporates paragraphs 6 through 8 of this Amended Accusation, as
3 though completely set forth herein.

4 17. Robles was elected to the Carson City Council in the March 5, 2013 General Municipal
5 Election, receiving 23.9 percent of the vote.

6 18. Robles was appointed as Mayor in April 2015 and was elected as Mayor in the
7 November 8, 2016 General Election, receiving 54.62 percent of the vote. His current term expires in
8 2020.

9 19. Robles was also a member of the Water Board beginning in 1992. However, he was
10 removed from the Water Board around May 2018 due to a civil action that found his Water Board
11 position to be incompatible with his position as Mayor.

12 20. The Committee qualified as a recipient committee on or about January 16, 2013, when
13 its contributions reached \$1,000 or more.

14 21. The Committee reported \$172,350.24 in total contributions and \$169,240.52 in total
15 expenditures in 2013.

16 22. Since the Committee remained open after the election, it was required to continue to file
17 campaign statements.

18 23. On August 15, 2017, and August 30, 2017, the Los Angeles Registrar-Recorder/County
19 Clerk (the "Clerk") notified the Committee and Robles in writing that the Committee had failed to file
20 its semiannual campaign statement for the reporting period ending on June 30, 2017.

21 24. On August 24, 2017, and September 13, 2017, the Clerk attempted to contact Robles via
22 phone.

23 25. After the Committee failed to file the required campaign statement, the Clerk referred
24 the matter to the Enforcement Division on September 25, 2017.

25 26. On October 10, 2017, the Enforcement Division sent the Committee and Robles a letter
26 via U.S. Mail and email requesting that the Committee file its outstanding campaign statement for the
27 reporting period ending on June 30, 2017, within 30 days.

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1 and selected regulations of the Commission regarding probable cause proceedings.

2 36. The Committee and Robles were served with the First PC Report on July 26, 2018. The
3 information contained in the First PC Report packet advised the Committee and Robles that they had 21
4 days in which to request a probable cause conference, file a written response to the First PC Report, or
5 both. Neither the Committee or Robles responded to the First PC Report.

6 37. By means of an Ex Parte Request for a Finding of Probable Cause and on Order that an
7 Accusation be Prepared and Served (the "Ex Parte Request"), dated August 24, 2018, the Enforcement
8 Division submitted the matter to the Hearing Officer for a determination of probable cause.

9 38. On or about August 27, 2018, the Hearing Officer issued an order finding, based on the
10 Ex Parte Request and the First PC Report, that there was probable cause to believe the Committee and
11 Robles violated the Act, as alleged in the First PC Report, and directed the Enforcement Division to
12 issue an accusation against the Committee and Robles in accordance with the finding.

13 39. The Enforcement Division served an Accusation on the Committee and Robles on
14 November 15, 2018 by personal service. Robles later returned a Notice of Defense to the Enforcement
15 Division, requesting an administrative hearing.

16 40. On April 19, 2019, the Committee and Robles were served with a packet containing a
17 cover letter, a Report in Support of a Finding of Probable Cause (the "Second PC Report"), a fact sheet
18 regarding probable cause proceedings, selected sections of the Government Code regarding probable
19 cause proceedings for the Commission, and selected regulations of the Commission regarding probable
20 cause proceedings.

21 41. The information contained in the Second PC Report packet advised the Committee and
22 Robles that they had 21 days in which to request a probable cause conference, file a written response to
23 the Second PC Report, or both.

24 42. On or about May 1, 2019, Robles requested a probable cause conference with the Hearing
25 Officer.

26 43. A probable cause conference took place on July 16, 2019, with Robles appearing
27 telephonically.

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1 violation pursuant to Section 83116: (1) the seriousness of the violation; (2) the presence
2 or absence of any intention to conceal, deceive or mislead; (3) whether the violation was
3 deliberate, negligent or inadvertent; (4) whether the violator demonstrated good faith by
4 consulting the Commission staff or any other government agency in a manner not
5 constituting a complete defense under Section 83114, subdivision (b); (5) whether the
6 violation was isolated or part of a pattern and whether the violator has a prior record of
7 violations of the Act or similar laws; and (6) whether the violator, upon learning of a
8 reporting violation, voluntarily filed amendments to provide full disclosure.

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

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12 Dated: 4 Oct 19



13 Galena West
14 Chief of Enforcement
15 Fair Political Practices Commission
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