



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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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: April 6, 2020

RE: Assignment of Hearing to Administrative Law Judge

Case Name: Rossana Mitchell-Arrieta for Chino Hills City Council 2016, Rossana Mitchell-Arrieta for Chino Hills City Council 2018, Rossana Mitchell-Arrieta, and Frank Arrieta; FPPC Case No. 17/462

I. INTRODUCTION

Respondent Rossana Mitchell-Arrieta (“Mitchell-Arrieta”) was an unsuccessful candidate for the Chino Hills City Council in both the November 8, 2016 and November 6, 2018 General Elections. Rossana Mitchell-Arrieta for Chino Hills City Council 2016 (the “2016 Committee”) was Mitchell-Arrieta’s controlled committee in conjunction with the 2016 election, and Rossana Mitchell-Arrieta for Chino Hills City Council 2018 (the “2018 Committee”) was Mitchell-Arrieta’s controlled committee in conjunction with the 2018 election. Frank Arrieta (“Arrieta”) was the treasurer of both committees.

Respondents committed numerous violations of the Political Reform Act (the “Act”) in conjunction with Mitchell-Arrieta’s 2016 and 2018 campaigns, including a failure to timely file preelection and semiannual campaign statements, 24-hour contribution reports, and a statement of organization; violations of the one bank account rule; violations of the Act’s recordkeeping requirements; improper cash expenditures; and violations of the Act’s mass mailing disclosure provisions, as detailed in the Accusation attached to this memorandum. Respondents filed notices of defense in response to the Accusation and requested an administrative hearing.

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

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

This memorandum is submitted to each member of the Commission pursuant to 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 Respondents by serving a Report in Support of a Finding of Probable Cause (the “PC Report”) on April 27, 2019 and June 10, 2019. In response to the PC Report, Respondents requested discovery pursuant to Regulation 18361.4, subdivision (c)(2). The Enforcement Division prepared a response to the discovery request, which was served on Respondents on August 9 and 13, 2019. No written response to the PC Report was submitted by Respondents. However, Respondents requested a probable cause conference.

On December 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. However, Respondents failed to appear at the conference. The hearing officer for the probable cause conference, Commission Counsel John M. Feser Jr., determined probable cause existed to believe that Respondents violated the Act as alleged in the PC Report. As a result, Mr. Feser Jr. issued an order dated December 17, 2019 finding probable cause and instructing the Enforcement Division to issue an accusation against Respondents in accordance with the finding.

The Enforcement Division served an Accusation on Respondents on January 27, 2020 by personal service. Respondents later returned notices of defense dated January 30, 2020 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

¹ See Gov. Code § 11512, subd. (a).

When the agency itself hears the case, the ALJ shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the ALJ. When the ALJ hears a case, he or she shall exercise all powers relating to the conduct of the hearing. A rule of the ALJ admitting or excluding evidence is subject to review in the same manner and to the same extent as the ALJ's proposed decision in the proceeding.²

V. SUMMARY OF THE ACCUSATION

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

As to the 2016 Committee, Mitchell-Arrieta, and Arrieta:

Count 1: Failure to Timely File Preelection Campaign Statement

The 2016 Committee, Mitchell-Arrieta, and Arrieta failed to timely file the 2016 Committee's preelection campaign statement for the reporting period of September 25, 2016 to October 22, 2016, in violation of Section 84200.5, subdivision (a); and 84200.8, subdivision (b).

Count 2: Failure to Timely File Semiannual Campaign Statement

The 2016 Committee, Mitchell-Arrieta, and Arrieta failed to timely file the 2016 Committee's semiannual campaign statement for the reporting period of October 23, 2016 to December 31, 2016, in violation of Section 84200, subdivision (a).

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

The 2016 Committee, Mitchell-Arrieta, and Arrieta failed to timely file a 24-hour contribution report for a late contribution in the amount of \$3,000 received on August 17, 2016, in violation of Section 84203.

Count 4: Failure to Timely File 24-Hour Contribution Report

The 2016 Committee, Mitchell-Arrieta, and Arrieta failed to timely file a 24-hour contribution report for a late contribution in the amount of \$1,600.05 received on September 6, 2016, in violation of Section 84203.

Count 5: Failure to Timely File 24-Hour Contribution Report

The 2016 Committee, Mitchell-Arrieta, and Arrieta failed to timely file a 24-hour contribution report for a late contribution in the amount of \$2,526.02 received on October 14, 2016, in violation of Section 84203.

² See Gov. Code § 11512, subd. (b).

Count 6: Failure to Timely File Statement of Organization

The 2016 Committee, Mitchell-Arrieta, and Arrieta failed to timely file the 2016 Committee's statement of organization, in violation of Section 84101.

Count 7: Failure to Pay Expenditures from Campaign Bank Account

The 2016 Committee, Mitchell-Arrieta, and Arrieta failed to pay \$26,004.66 in expenditures from the designated campaign bank account, in violation of Section 85201, subdivisions (d) and (e).

Count 8: Unlawful Cash Expenditures of \$100 or More

The 2016 Committee, Mitchell-Arrieta, and Arrieta made a cash expenditure in the amount of \$1,533 on November 30, 2016, in violation of Section 84300, subdivision (b).

Count 9: Failure to Maintain Campaign Records

The 2016 Committee, Mitchell-Arrieta, and Arrieta failed to maintain adequate source documentation for contributions totaling \$5,380 and expenditures totaling \$32,258.06, in violation of Section 84104 and Regulation 18401.

As to the 2016 Committee and Mitchell-Arrieta:

Count 10: Failure to Comply With Disclosure Requirements for Mass Mailings

The 2016 Committee and Mitchell-Arrieta failed to disclose the street address and city of the 2016 Committee and the correct committee name on six mass mailings sent out between August 25, 2016 and October 13, 2016, in violation of Section 84305.

As to the 2018 Committee, Mitchell-Arrieta, and Arrieta:

Count 11: Failure to Timely File Preelection Campaign Statement

The 2018 Committee, Mitchell-Arrieta, and Arrieta failed to timely file the 2018 Committee's preelection campaign statement for the reporting period of September 23, 2018 to October 20, 2018, in violation of Section 84200.5, subdivision (a); and 84200.8, subdivision (a).

Count 12: Failure to Timely File Semiannual Campaign Statement

The 2018 Committee, Mitchell-Arrieta, and Arrieta failed to timely file the 2018 Committee's semiannual campaign statement for the reporting period of October 21, 2018 to December 31, 2018, in violation of Section 84200, subdivision (a).

Count 13: Failure to Timely File 24-Hour Contribution Report

The 2018 Committee, Mitchell-Arrieta, and Arrieta failed to timely file a 24-hour contribution report for a late contribution in the amount of \$10,000 received on September 22, 2018, in violation of Section 84203.

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).