

1 ANGELA J. BRERETON (SBN 209972)
Chief of Enforcement
2 THERESA GILBERTSON (SBN 288598)
Senior Commission Counsel
3 JENNA RINEHART (SBN 319515)
FAIR POLITICAL PRACTICES COMMISSION
4 1102 Q Street, Suite 3000
Sacramento, CA 95811
5 Telephone: (916) 323-6421
Email: tgilbertson@fppc.ca.gov

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

8
9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

10 STATE OF CALIFORNIA

11 In the Matter of

12
13 LLOYD A JOHNSON FOR WEST
14 COVINA CITY COUNCIL 2015,
LLOYD JOHNSON, and JOHN
15 SHEWMAKER,

16 Respondents.

) OAH No. 2020090823
) FPPC No. 2015/2076
)
)
) COMPLAINANT’S OPENING BRIEF IN
) SUPPORT OF THE PROPOSED DECISION
)
)
) Hearing Judge: Deena R. Ghaly
) Hearing Date: **August 30, 2021**
) Hearing Time: 9:00 a.m.
) Hearing Place: Via videoconference
) 320 W. Fourth Street, Suite 630
Los Angeles, CA 90013

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19 Complainant, the Enforcement Division of the Fair Political Practices Commission, submits this
20 brief pursuant to Government Code section 83116 and title 2, California Code of Regulations sections
21 18361.5 and 18361.9.¹ The purpose of this brief is to provide Enforcement Division’s recommendation
22 regarding this proposed decision pursuant to Regulation 18361.9(b)(1). Regulation 18361.9 refers to
23 Government Code section 11517 for the possible actions the Commission can take regarding this proposed
24 decision from the Administrative Law Judge after a full hearing on this matter.

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27 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references
28 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. See §§ 83111 and 83116.

1 The proposed decision of Administrative Law Judge Deena R. Ghaly, dated September 30, 2021,
2 states findings of fact that are supported by and consistent with the evidence presented at the hearing in
3 this matter on August 30, 2021, in Los Angeles, California. The proposed decision also contains an
4 accurate statement and application of the law pertinent to this matter. There is no additional material
5 evidence, which could, with reasonable diligence, have been discovered and presented at the
6 administrative hearing.

7 The Enforcement Division's recommendation is that the Commission adopt the proposed decision
8 and penalty but also make technical and minor changes in the proposed decision (Gov. Code section
9 11517(c)(2)(C).) The agency may make clarifying changes or changes of a similar nature so long as the
10 change does not affect the factual or legal basis of the proposed decision. Specifically, the Enforcement
11 Division recommends the following technical and minor changes to the proposed decision:

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13 1. On page 11, in the first paragraph at the top of the page: After the statement "Committees must
14 file campaign statements disclosing information regarding contributions received and
15 expenditures made by the committee," the Enforcement Division recommends adding the
16 citation: "**(Gov. Code, §§ 84200 and 84200.5.)**"
- 17 2. On page 11, at the end of the first paragraph: The legal reference to "(Former Gov. Code, §
18 84203.5)" contains typographical errors. The reference should read: "**(Former Gov. Code, §
19 84211.)**"
- 20 3. On page 11, at the end of paragraph 6: The decision reads: "For reporting purposes, the date
21 an expenditure is made on the date payment is made or on the date any consideration for the
22 payment is received, whichever is earlier. (CCR, tit. 2, § 18225, subd. (b).)" The following
23 revision is recommended: "For reporting purposes, ~~the date~~ an expenditure is made on the
24 date payment is made or on the date any consideration for the payment is received, whichever
25 is earlier. (CCR, tit. 2, § 18225, subd. (b).)"
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- 1 4. On page 11, at paragraph 7: The statement “(CCR, tit. 2, §§ 18225.7 and 18550.1 [repealed
2 effective 12.9/2015, consolidated and amended into current CCR, tit. 2. § 18255.7])” includes
3 two typographical errors. The reference should read: (CCR, tit. 2, §§ 18225.7 and 18550.1
4 [repealed effective 12-9/2015, consolidated and amended into current CCR, tit. 2. §
5 182525.7])
- 6 5. On page 13, paragraph 8 (i): The decision states, “Shewmaker, acting as agent to Johnson and
7 the Johnson Committee, produced and mailed a mass mailing advocating for Johnson’s
8 opponents...”. The statement should read: “Shewmaker, acting as agent to Johnson and the
9 Johnson Committee, produced and mailed a mass mailing advocating ~~for~~ against Johnson’s
10 opponents...”
- 11 6. On page 14, at paragraph 11: The statement, “section 18361.5, subdivision (d)...” includes a
12 typographical error. The reference should read, “section 18361.5, subdivision (~~de~~)...”.
- 13 7. On page 16, paragraph C (2): The decision states, “Initially denying his involvement in the
14 mailers altogether, Shewmaker let FPPC investigators through an extensive and unnecessary
15 investigation.” The statement should read, “Initially denying his involvement in the mailers
16 altogether, Shewmaker ~~let~~ led FPPC investigators through an extensive and unnecessary
17 investigation.”

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19 Additionally, the proposed total administrative penalty of \$3,000 for Respondents Lloyd A.
20 Johnson for West Covina City Council 2015 and Lloyd Johnson for two proven violations of the Political
21 Reform Act and \$6,000 for Respondents Lloyd A. Johnson for West Covina City Council 2015, Lloyd
22 Johnson and John Shewmaker for two proven violations of the Political Reform Act is appropriate in this
23 matter because it takes into consideration the factors to be considered in framing a proposed decision.²

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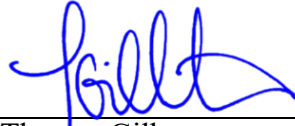
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27 ² Reg. 18361.5, subdivision (e).

1 Thus, the Enforcement Division respectfully requests that the Commission make technical and
2 minor changes in the proposed decision and adopt it as the decision.

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4 Dated: October 10, 2021

FAIR POLITICAL PRACTICES COMMISSION

By: Angela J. Brereton
Chief of Enforcement

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Theresa Gilbertson
Senior Commission Counsel