JOHN C. SHEWMAKER
BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA In the Matter of LLOYD A JOHNSON FOR WEST COVINA CITY COUNCIL 2015, LLOYD JOHNSON, and JOHN SHEWMAKER, Respondents	))))))))))))	OAH No. 2020090823 FPPC No. 2015/2076 RESPONDENTS OPENING BRIEF IN OPPOSITION 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

As counsel for the committee stated in a brief submitted to the court, they requested use of the **LIBERAL** CONSTRUCTION PRINCIPLE:

"The cases should be determined on the merits in order to give the parties full opportunity to ventilate their causes and defenses, rather than on technicalities or procedural imperfections. In that way, the ends of justice would be served better."

Yet, counsel relied on holding a person, Johnson, responsible for actions investigators knew Johnson had NO knowledge by using "technicalities" in the law as they had no evidence of Johnson having any knowledge of the activities in question.

The investigator used an old and unfair police tactic that no matter the answer it would be and was twisted to fit the narrative wanted, not what happened.

The investigator's argument is because Lloyd Johnson paid me what was owed to me from before I left his campaign after I left his campaign, he was responsible for something he knew nothing about.

If I told him not to pay me because of my personal business activities, which he had no knowledge, it would then be interpreted as a campaign donation which shows I was part of his campaign.

Additionally, they would have charged us for exceeding the legal limits of our city election code, thus he would be held for another violation.

NO DESIRE FOR THE TRUTH

When investigators were told of the business transaction unrelated to the Johnson campaign, the investigator testified they were told by superiors NOT to investigate and to move on. Not to investigate! This very statement reflects little, if any, desire to seek out the truth, but to get a "win" using a position and technicality which Johnson/Shewmaker in any circumstance could never refute – trying to prove a negative.

During the Probable Cause Hearing, counsel for the committee admitted they did not investigate given by Shewmaker as they felt there was NO reason as the person had finished "last".

The investigator stated during the face-to-face meeting the reason Johnson was investigated he was the only one in the campaign not to have had an opposition mailer. The investigator was SURPRISED to learn there we SIX candidates, not FIVE.

After being chastised by the Probable Cause Hearing Officer, Committee Counsel did promise to "conduct an investigation" which consisted of calling the person's campaign firm and asking if they knew anything about it. Investigation "complete" according to counsel.

Additionally, during testimony the investigator said they made a phone call to the "campaign" firm of the party making the payment and they denied any knowledge FIVE YEARS after the campaign and almost 5 years after given the information. The only record of the investigation, as it was not submitted in discovery is an email from counsel who "conducted" the investigation.

So, we now have TWO versions of what happened. One person saying they made a phone call, but were told NOT to investigate and another statement saying counsel conducted an "investigation", much later.

One has wonder, if looking at the other party's campaign website with pictures of the person with President Obama, Secretary Clinton, Governor Brown, among others felt it was best, politically, to use the law and just ignore the information about their involvement.

There is a jury instruction given that if a witness testifies falsely, the jury can disregard all testimony. What is the standard when committee counsel and an investigator contradict when a phone call was made, while leaving out they were told NOT to investigate?

IMPORTANT ISSUE?

Contrary to claims of this being an important case for political reporting and protection of the voters as claimed testimony by the original investigator on the case stated this was a "nothing" case which should have gone "nowhere".

Johnson and Shewmaker error? Telling the truth, not falling to their knees begging for forgiveness and giving the investigator a quick "win" to put on his resume as he was looking for new employment. The original investigator left the employment of the committee a short time after starting the case.

During testimony, it was stated the length of time to bring this case to this point was "unusual" as we are closing in on 6 years. The law has even changed since this case started as shown by committee counsel who used the old version as they realized it would greatly change the case and outcome.

Counsel even commented that it was taking so long as they had "important" matters to address.

WANTED WIN, NOT JUSTICE

To further show Investigators/Counsel wanted a "win", not justice, is the fact they offered both parties "deals" to turn on the other and this would "just go away"

for the person "turning" on the other. This was testified to during the administrative hearing without rebuttal.

That, in itself reflects concern about the case and wanting a "win".

DANGEROUS NEW TERRITORY – CANDIDATES/COMMITTEES/CONSULTANTS

This case heads into an area of danger for candidates, campaign committees and campaign consultants while opening a major loophole for those wanting to circumvent campaign finance laws.

Counsel and investigators readily admit all of Johnson's campaign filings were accurate and correct, except for him not reporting something for which he had NO knowledge. There was no purposeful or negligent ignoring of the law, as there was no requirement for a party ***not*** part of the activity to report. How do you report if you have NO knowledge?

The dangerous territory opened by this interpretation of the law makes it easier to hammer opposing campaigns. How? Become part of the campaign, do something in violation of reporting requirements, then that campaign is tied into it even when they had no knowledge.

Then, just blame the other party while investigators and counsel will give you a pass as they tried in this case. Johnson was offered a pass to blame Shewmaker and Shewmaker was offered a pass to blame Johnson. It gives the investigator and counsel a "win" and they can claim justice was served.

Also, when investigators were asked why they did not question other campaigns which Shewmaker was involved in. Their response was it was not the same office. So, we now can be involved in other campaigns, conduct a war against a candidate running for another office to support the candidate you favor, fail to report, but nothing is wrong because it is another office.

This case attempts to place a burden on "vendors" to ensure information on the mailers is true, complete, and accurate. This case hinged on the campaign committee name and address not being accurate. The address was accurate, but it turns out the committee was never formed. There was no duty or legal

requirement for the designer, mailer, or anyone besides the client to report the mailer.

Now, are printers required to verify the information on the documents which they are printing? Are the mailing houses required to verify information on the documents? Are the graphic designers required to verify the information given to them to create a mailer?

Based on this case, YES. If you have any connection to any candidate in a campaign. Thus, since a donor helped raise funds for the Johnson campaign was an investor in the printing company, was the printer required to verify the information because of the connection? NO, before this case.

SUMMARY

Without a doubt counsel will point out the findings of the administrative law judge in rebuttal. The administrative law judge was limited to ruling on the information presented, not to conduct a review of investigators and counsel.

Since the system is weighed towards counsel, the committee has the full power to review the conduct of the investigators and counsel for not investigating hard facts, delaying the case for almost 6 years, and their own admissions of this being a “nothing” case justice is served by the committee withdrawing this case.

Lloyd Johnson is a disabled Vietnam Veteran, Purple Heart Recipient and retired union welder living on a fixed retirement. His reputation was greatly harmed due to this case which he had ABSOLUTELY no knowledge of the activities claimed.

Counsel and investigators have NEVER claimed he was aware. The other party involved in the case clearly stated Lloyd Johnson had no knowledge of the activities. They use “technicalities”, just what they requested NOT take place to find fault when the evidence says otherwise.

Without Johnson being held in the case, there is no basis for the case involving Shewmaker, a vendor for another person associated with another campaign.

The investigator and counsel failed to investigate information given to them and admitted they were told not to investigate information given at the face-to-face meeting.

The investigator and counsel had reached a conclusion prior to investigating and only accepted information that "fit" that predetermined outcome at best. At worst were afraid of political pressure, if investigated.

I respectfully request the Committee dismiss this case or, at a minimum, reduce the draconian penalty to a nominal amount, in the interest of fundamental fairness and justice.

OCTOBER 26, 2021

JOHN C. SHEWMAKER