



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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**To:** Chair Miadich, Commissioners Baker, Cardenas, Wilson, and Wood

**From:** Galena West, Executive Director  
Angela J. Brereton, Chief of Enforcement  
Ruth Yang, Senior Commission Counsel

**Subject:** Assignment of Hearing to Administrative Law Judge

**Case Name:** In the Matter of Stop the Strong Mayor Power Grab, No on Measure A (ID# 1433173) and Craig Powell; FPPC No. 2020-00823

**Date:** February 7, 2022

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## **I. INTRODUCTION**

Respondent Stop the Strong Mayor Power Grab, No on Measure A (the “Committee”) was a committee primarily formed to oppose Measure A, which appeared on the ballot for the City of Sacramento in the November 3, 2020 General Election. Respondent Craig Powell (“Powell”) served as the Committee’s principal officer.

The Committee and Powell violated the Political Reform Act (the “Act”)<sup>1</sup> by failing to comply with disclosure requirements for yard signs, banners, and electronic media advertisements, as detailed in the Accusation attached to this memorandum. Powell filed a Notice 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 California Code of Regulation section 18361.5, subdivision (b), which provides:

If the Enforcement Division determines that a hearing on the merits should be conducted before an administrative law judge alone pursuant to Government Code section 11512(a), the

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<sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulation 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.

Enforcement Division 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. All Commissioners are eligible to participate in the hearing, regardless of whether they voted to hear the matter themselves or not.

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 Powell on or around May 14, 2021 by serving them with a Report in Support of a Finding of Probable Cause (“PC Report”) by certified mail. The Committee and Powell did not file a response to the PC Report or request a probable cause conference within the 21 days following service of the PC Report.

On June 7, 2021, the Enforcement Division submitted an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served (“Ex Parte Request”) to the Hearing Officer for a determination of probable cause. On or around June 9, 2021, the Hearing Officer issued an order finding, based on the Ex Parte Request and the PC Report, that there was probable cause to believe the Committee and Powell violated the Act. The order also directed the Enforcement Division to issue an accusation against the Committee and Powell in accordance with the finding.

On August 2, 2021, the Commission’s Chief of Enforcement Angela J. Brereton, issued an Accusation against the Committee and Powell. The Accusation was delivered to the Committee and Powell by personal service on September 27, 2021. On October 11, 2021, Powell requested a 15-day extension to respond to the Accusation, and the Enforcement Division granted the extension through October 28, 2021. The Committee and Powell submitted a signed notice of defense, dated October 28, 2021 and received October 29, 2021, to request 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.<sup>2</sup>

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

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<sup>2</sup> See Gov’t Code § 11512, subd. (a).

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.<sup>3</sup>

## **V. SUMMARY OF THE ACCUSATION**

The Accusation alleges that the Committee and Powell violated the Political Reform Act as follows:

### Count 1: Failure to Comply with Disclosure Requirements for Yard Signs

The Committee and Powell failed to include the "Ad paid for by" language on yard signs and, additionally, to put the disclosure statement in a printed or drawn box, in violation of Government Code sections 84502, subdivision (a)(1), and 84504.2, subdivision (b).

### Count 2: Failure to Comply with Disclosure Requirements for Banners

The Committee and Powell failed to include the "Ad paid for by" language on banners and, additionally, to put the disclosure statement in a printed or drawn box, in violation of Government Code sections 84502, subdivision (a)(1), and 84504.2, subdivision (b).

### Count 3: Failure to Comply with Disclosure Requirements for Electronic Media Advertisements

The Committee and Powell failed to include the "Ad paid for by" language on the Committee's website, in violation of Government Code sections 84502, subdivision (a)(1), and 84504.3.

### Count 4: Failure to Comply with Disclosure Requirements for Electronic Media Advertisements

The Committee and Powell failed to include the "Ad paid for by" language on the Committee's social media page, in violation of Government Code sections 84502, subdivision (a)(1), and 84504.3.

## **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.<sup>4</sup> Otherwise, hearing of this matter will be conducted before an ALJ alone pursuant to Section 11512, subdivision (a).

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<sup>3</sup> See Gov't Code § 11512, subd. (b).

<sup>4</sup> Reg. § 18361.5, subd. (b).

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6 Attorneys for Complainant  
Enforcement Division of the Fair Political Practices Commission  
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9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**  
10 **STATE OF CALIFORNIA**

11 In the Matter of: ) FPPC No. 2020-00823  
12 )  
13 )  
14 ) **STOP THE STRONG MAYOR POWER ) ACCUSATION**  
15 ) **GRAB, NO ON MEASURE A and )**  
16 ) **CRAIG POWELL, )**  
17 ) **Respondents. ) (Gov. Code §11503)**  
 )  
 )

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

20 **JURISDICTION**

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

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

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1 11. Any advertisement paid for by a primarily formed committee must include the words “Ad  
2 paid for by” followed by the name of the committee as it appears on the most recent Statement of  
3 Organization filed with the Secretary of State.<sup>6</sup>

4 12. There are additional disclosure requirements, depending on the type of advertisement. For  
5 large print advertisements, such as yard signs and banners, the disclosure must appear in a printed or  
6 drawn box with a solid white background on the bottom of the advertisement that is set apart from other  
7 printed matter, in a contrasting color, and in Arial equivalent type that is no less than five percent of the  
8 height of the advertisement.<sup>7</sup>

9 13. For an internet website paid for by a committee, the disclosure must be printed clearly and  
10 legibly in contrasting color and in no less than 8-point font at the top or bottom of every publicly accessible  
11 page.<sup>8</sup>

12 14. For a social media page, the disclosure must be in a contrasting color that is easily readable  
13 by the average viewer and in no less than 10-point font on the cover or header photo of the committee’s  
14 profile, landing page, or similar location.<sup>9</sup>

15 **C. Joint and Several Liability**

16 15. It is the duty of the committee’s principal officer to authorize the content of  
17 communications made by the committee, authorize the expenditures made by the committee, and  
18 determine the committee’s campaign strategy.<sup>10</sup>

19 16. A principal officer may be held jointly and severally liable, along with the committee, for  
20 violations committed by the committee.<sup>11</sup>

21 **D. Factors to be Considered by the Fair Political Practices Commission**

22 17. In framing a proposed order following a finding of a violation pursuant to Government  
23 Code Section 83116, the Commission and the administrative law judge shall consider all the surrounding  
24 circumstances including but not limited to the following factors set forth in Regulation 18361.5  
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26 <sup>6</sup> Section 84502, subd. (a)(1).

27 <sup>7</sup> Section 84504.2, subd. (b).

28 <sup>8</sup> Section 84504.3, subd. (d).

<sup>9</sup> Section 84504.3, subd. (h)(1).

<sup>10</sup> Section 82047.6; Regulation 18402.1, subd. (b).

<sup>11</sup> Sections 83116.5 and 91006.

1 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific  
2 violation; (2) The level of experience of the violator with the requirements of the Political Reform Act;  
3 (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of  
4 any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or  
5 inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any  
6 other governmental agency in a manner not constituting complete defense under Government Code  
7 Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has  
8 a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon  
9 learning of a reporting violation, voluntarily filed amendments to provide full disclosure.<sup>12</sup>

### 10 **GENERAL FACTS**

11 18. The Committee qualified as a committee on or around September 16, 2020.

12 19. The Committee filed an initial Statement of Organization with the Secretary of State on  
13 September 25, 2020 and reported its name as “Stop the Mayor Power Grab, No on Measure A.”

14 20. Measure A, a measure to revise the City of Sacramento’s charter, was unsuccessful,  
15 receiving approximately 42 percent of the votes.

16 21. The Committee received and made a total of \$26,400 each in contributions and  
17 expenditures before terminating as of December 31, 2020.

18 22. The Committee paid for a variety of advertisements prior to the election, including yard  
19 signs, banners, a website, and a Facebook page. Most of those advertisements failed to comply with the  
20 advertising disclosure rules of the Act.

21 23. The Committee purchased 500 copies of a yard sign advertisement and 50 copies of a  
22 banner advertisement. Those print advertisements did not include the “Ad paid for by” language,  
23 incorrectly identified the Committee’s name as “Stop the Strong Mayor Power Grab, No on Measure A,”  
24 and did not place the disclosure statement in a printed or drawn box.

25 24. The Committee also had electronic media advertisements in the form of a website and a  
26 Facebook page, both of which failed to include the “Ad paid for by” language and the Committee’s name.

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<sup>12</sup> Regulation 18361.5, subdivision (e).







1 **Count 4**

2 **Failure to Comply with Disclosure Requirements for Electronic Media Advertisements**

3 43. Complainant incorporates paragraphs 1 – 42 of this Accusation, as though completely set  
4 forth here.

5 44. The Committee and Powell had a duty to include the “Ad paid for by” language on the  
6 Committee’s social media page.

7 45. The Committee and Powell failed to include the “Ad paid for by” language on the  
8 Committee’s social media page.

9 46. By failing to include the “Ad paid for by” language on the Committee’s social media page,  
10 the Committee and Powell violated Government Code Sections 84502, subdivision (a)(1), and 84504.3.

11 **MITIGATING OR EXCULPATORY FACTORS**

12 47. Soon after receiving contact from the Enforcement Division and prior to the election,  
13 Respondents amended the disclosure statements on its advertisements to include the “Ad paid for by”  
14 language.

15 48. Respondents were cooperative with the Enforcement Division’s investigation into the  
16 violations in this case.

17 **AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS**

18 49. The Committee and Powell incorrectly identified the Committee’s name as “Stop the  
19 Strong Mayor Power Grab, No on Measure A” on some advertisements. Due to the addition of the word  
20 “Strong,” anyone looking for the Committee’s campaign statements might have had some difficulty  
21 locating them. However, the Committee and Powell filed an amended Statement of Organization on  
22 October 21, 2020 to have the Committee’s name reflect the name displayed on the advertisements.

23 **PRAYER**

24 WHEREFORE, Complainant prays as follows:

- 25 1. That the Fair Political Practices Commission hold a hearing pursuant to Section 83116 and  
26 Regulation 18361.5, and at such hearing find that the Committee and Powell violated the  
27 Act as alleged herein;

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2. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c), order the Committee and Powell to pay a monetary penalty of up to \$5,000 for the violation of the Political Reform Act alleged in **Count 1**;
3. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c), order the Committee and Powell to pay a monetary penalty of up to \$5,000 for the violation of the Political Reform Act alleged in **Count 2**;
4. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c), order the Committee and Powell to pay a monetary penalty of up to \$5,000 for the violation of the Political Reform Act alleged in **Count 3**;
5. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c), order the Committee and Powell to pay a monetary penalty of up to \$5,000 for the violation of the Political Reform Act alleged in **Count 4**;
6. That the Fair Political Practices Commission, pursuant to Regulation 18361.5, subdivision (e), consider the following factors in framing a proposed order following a finding of a violation pursuant to Section 83116: (1) The extent and gravity of the public harm caused by the specific violation; (2) The level of experience of the violator with the requirements of the Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any other governmental agency in a manner not constituting complete defense under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

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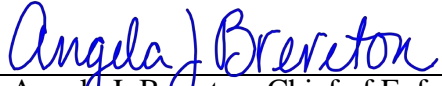
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7. That the Fair Political Practices Commission grant such other and further relief as it deems just and proper.

Dated: 08/03/2021

  
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Angela J. Breeton, Chief of Enforcement  
Fair Political Practices Commission