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3 **FAIR POLITICAL PRACTICES COMMISSION**  
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6 Attorneys for Complainant

7  
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
9 STATE OF CALIFORNIA  
10

11 In the Matter of	)	FPPC No.: 17/378
12	)	
13 WYMAN FOR ATTORNEY GENERAL 2014	)	DEFAULT DECISION AND
AND JAMES M. O'HEARN,	)	ORDER
14 Respondents.	)	(Government Code Sections 11506
15	)	and 11520)

16  
17 Complainant, the Enforcement Division of the Fair Political Practices Commission, hereby  
18 submits this Default Decision and Order for consideration by the Fair Political Practices Commission at  
19 its next regularly scheduled meeting.

20 Pursuant to the California Administrative Procedure Act,<sup>1</sup> Wyman for Attorney General 2014  
21 (the "Committee") and James M. O'Hearn ("O'Hearn") have been served with all of the documents  
22 necessary to conduct an administrative hearing regarding the above-captioned matter, including the  
23 following:

- 24 1. An Order Finding Probable Cause;
- 25 2. An Accusation;
- 26 3. A Notice of Defense (Two Copies per Respondent);

27  
28 <sup>1</sup> The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code.

- 1           4.     A Statement to Respondent; and  
2           5.     Copies of Sections 11506, 11507.5, 11507.6 and 11507.7 of the Government Code.

3           Government Code Section 11506 provides that failure of a respondent to file a Notice of Defense  
4 within fifteen days after being served with an Accusation shall constitute a waiver of respondent's right  
5 to a hearing on the merits of the Accusation. The Statement to Respondent, served on O'Hearn and the  
6 Committee, stated that a Notice of Defense must be filed in order to request a hearing. O'Hearn and the  
7 Committee failed to file a Notice of Defense within fifteen days of being served with an Accusation.  
8 Government Code Section 11520 provides that, if the respondent fails to file a Notice of Defense, the  
9 Commission may take action, by way of a default, based upon the respondent's express admissions or  
10 upon other evidence, and that affidavits may be used as evidence without any notice to the respondent.

11           O'Hearn and the Committee violated the Political Reform Act as described in Exhibit 1, which is  
12 attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and  
13 accurate summary of the law and evidence in this matter. This Default Decision and Order is submitted  
14 to the Commission to obtain a final disposition of this matter.

15  
16 Dated: 20 Feb 20

  
\_\_\_\_\_  
Galena West, Chief of Enforcement  
Fair Political Practices Commission

1  
2 **ORDER**

3 The Commission issues this Default Decision and Order and imposes a total administrative penalty  
4 of \$15,000 upon Wyman for Attorney General 2014 and James M. O’Hearn, payable to the “General Fund  
5 of the State of California.”

6 IT IS SO ORDERED, effective upon execution below by the Chair of the Fair Political Practices  
7 Commission at Sacramento, California.

8  
9 Dated: \_\_\_\_\_

\_\_\_\_\_  
Richard C. Miadich, Chair  
Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Phillip D. Wyman (“Wyman”) was a candidate for California Attorney General in the June 3, 2014 Primary Election. Wyman for Attorney General 2014 (the “Committee”) is Wyman’s candidate-controlled committee created in conjunction with his campaign for Attorney General in the June 3, 2014 Primary Election. James M. O’Hearn (“O’Hearn”) is the treasurer for the Committee.

The Political Reform Act (“Act”)<sup>1</sup> requires that candidate-controlled committees maintain certain records for all contributions and other receipts received and expenditures made. In addition, the Act requires reporting of campaign expenditures, including payments made to subvenders. Finally, the Act requires candidate-controlled committees to file campaign statements and reports to disclose their contributions received and expenditures made.

This matter arose out of an audit of the Committee conducted by the Franchise Tax Board, which revealed that Respondents committed numerous violations of the Act.

Despite their obligations, the Committee and O’Hearn failed to meet the recordkeeping requirements of the Act, failed to timely report information regarding payments made to subvenders, failed to timely file two semiannual campaign statements, and failed to timely file required 24-hour contribution reports.

Wyman died on November 28, 2019. Therefore, he is not included as a respondent on this default.

### **DEFAULT PROCEEDINGS UNDER THE ADMINISTRATIVE PROCEDURE ACT**

When the Commission determines that there is probable cause for believing that the Act has been violated, it may hold a hearing to determine if a violation has occurred.<sup>2</sup> Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the “APA”).<sup>3</sup> A hearing to determine whether the Act has been violated is initiated by the filing of an accusation, which shall be a concise written statement of the charges, specifying the statutes and rules which the respondent is alleged to have violated.<sup>4</sup>

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<sup>1</sup> The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission (“Commission”) are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Section 83116.

<sup>3</sup> The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code; Section 83116.

<sup>4</sup> Section 11503.

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing; (2) object to the accusation on the ground it does not state acts or omissions upon which the agency may proceed; (3) object to the form of the accusation on the ground that it is so indefinite or certain that the respondent cannot identify the transaction or prepare a defense; (4) admit the accusation in whole or in part; (5) present new matter by way of a defense; or (6) object to the accusation on the ground that, under the circumstances, compliance with a Commission regulation would result in a material violation of another department's regulation affecting substantive rights.<sup>5</sup>

The APA provides that a respondent's failure to file a Notice of Defense within 15 days after service of an accusation constitutes a waiver of the respondent's right to a hearing.<sup>6</sup> Moreover, when a respondent fails to file a Notice of Defense, the Commission may take action based on the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to the respondent.<sup>7</sup>

## **ADMINISTRATIVE PROCEDURAL REQUIREMENTS AND HISTORY**

### **A. Initiation of the Administrative Action**

The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated starts the administrative action.<sup>8</sup>

A finding of probable cause may not be made by the Commission unless the person alleged to have violated the Act is 1) notified of the violation by service of process or registered mail with return receipt requested; 2) provided with a summary of the evidence; and 3) informed of his or her right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated the Act.<sup>9</sup> Additionally, the required notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.<sup>10</sup>

No administrative action pursuant to Chapter 3 of the Act alleging a violation of any of the provisions of the Act may be commenced more than five years after the date on which the violation occurred.<sup>11</sup>

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<sup>5</sup> Section 11506, subs. (a)(1)-(6).

<sup>6</sup> Section 11506, subd. (c).

<sup>7</sup> Section 11520, subd. (a).

<sup>8</sup> Section 91000.5, subd. (a).

<sup>9</sup> Section 83115.5.

<sup>10</sup> Section 83115.5.

<sup>11</sup> Section 91000.5.

Documents supporting the procedural history are included in the attached Certification of Records (“Certification”) filed herewith at Exhibit 1, A-1 through A-13, and incorporated herein by reference.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against the Committee and O’Hearn in this matter by serving them with a Report in Support of a Finding of Probable Cause (the “Report”). (Certification, Exhibit A-1.) The Committee and O’Hearn were served with the Report by certified mail, return receipt requested,<sup>12</sup> on April 20, 2019. (Certification, Exhibit A-2.) The administrative action commenced on April 20, 2019, and the five-year statute of limitations was effectively tolled on this date.

As required by Section 83115.5, the packet served on the Committee and O’Hearn contained a cover letter and a memorandum describing probable cause proceedings, advising that the Committee and O’Hearn had 21 days in which to request a probable cause conference and/or to file a written response to the Report. (Certification, Exhibit A-3.) The Enforcement Division extended the deadline to respond to the Report to August 15, 2019. The Committee and O’Hearn did not request a probable cause conference or submit a written response to the Report by the deadline.

**B. Ex Parte Request for a Finding of Probable Cause**

Because the Committee and O’Hearn failed to request a probable cause conference or submit a written response to the Report by the deadline provided, the Enforcement Division submitted an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served to the Hearing Officer of the Commission on August 19, 2019. (Certification, Exhibit A-4.)

On September 10, 2019, the Hearing Officer issued a Finding of Probable Cause and an Order to Prepare and Serve an Accusation on the Committee and O’Hearn. (Certification, Exhibit A-5.)

**C. The Issuance and Service of the Accusation**

Under the Act, if the Hearing Officer makes a finding of probable cause, the Enforcement Division must prepare an accusation pursuant to Section 11503 of the APA, and have it served on the persons who are the subject of the probable cause finding.<sup>13</sup>

Section 11503 states:

A hearing to determine whether a right, authority, license, or privilege should be revoked, suspended, limited, or conditioned shall be initiated by filing an accusation or District

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<sup>12</sup> Section 83115.5.

<sup>13</sup> Regulation 18361.4, subd. (e).

Statement of Reduction in Force. The accusation or District Statement of Reduction in Force shall be a written statement of charges that shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his or her defense. It shall specify the statutes and rules that the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of those statutes and rules. The accusation or District Statement of Reduction in Force shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

Upon the filing of the accusation, the agency must 1) serve a copy thereof on the respondent as provided in Section 11505, subdivision (c); 2) include a post card or other form entitled Notice of Defense that, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506; 3) include (i) a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon the respondent of the accusation, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and (ii) copies of Sections 11507.5, 11507.6, and 11507.7.<sup>14</sup> The APA also sets forth the language required in the accompanying statement to the respondent.<sup>15</sup>

The Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but no order adversely affecting the rights of the respondent may be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in the APA.<sup>16</sup>

On October 4, 2019, the Commission's Chief of Enforcement, Galena West, issued an Accusation against the Committee and O'Hearn. (Certification, Exhibit A-6.) In accordance with Section 11505, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense form for each respondent, copies of Government Code sections 11506, 11507.5, 11507.6, and 11507.7, were served upon the Committee and O'Hearn on December 18, 2019. (Certification, Exhibit A-7.)

Along with the Accusation, the Enforcement Division served the Committee and O'Hearn with a "Statement to Respondent," which notified them that they could request a hearing on the merits and warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, they would be deemed to have waived the right to a hearing. (Certification, Exhibit A-8.) The Committee and O'Hearn did not file a Notice of Defense within the statutory time period, which ended on January 2, 2020.

As a result, on January 21, 2020, the Enforcement Division sent a letter to the Committee and O'Hearn advising that this matter would be submitted for a Default Decision

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<sup>14</sup> Section 11505, subd. (a).

<sup>15</sup> Section 11505, subd. (b).

<sup>16</sup> Section 11505, subd. (c).

and Order at the Commission’s public meeting scheduled for March 19, 2020. (Certification, Exhibit A-12.)

On January \_\_, 2020, the Enforcement Division sent another letter to the Committee and O’Hearn advising that this matter would be submitted for a Default Decision and Order at the Commission’s public meeting scheduled for March 19, 2020. (Certification, Exhibit A-13.) A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter.

## SUMMARY OF THE LAW

All applicable law in this default is the law as it existed during the relevant time for the violations alleged.

When enacting the Political Reform Act, the people of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>17</sup> To that end, the Act is to be construed liberally to accomplish its purposes.<sup>18</sup>

One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.<sup>19</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>20</sup> Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”<sup>21</sup>

Candidates and treasurers have a duty to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements and establish campaign statements were properly filed.<sup>22</sup> This duty includes maintenance of detailed information and original source documentation for a period of four years following the date the campaign statement to which they relate is filed.<sup>23</sup> Examples of original source documentation that must be maintained include copies of contributor checks, deposit slips, and contributor cards for contributions of \$25 or more.<sup>24</sup>

A subvendor is a person or company that is hired by a committee’s agent or independent contractor to provide a good or service for the committee. The Act requires committees to report payments of \$500 or more made on its behalf by an agent or independent contractor the same way

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<sup>17</sup> Section 81001, subd. (h).

<sup>18</sup> Section 81003.

<sup>19</sup> Section 81002, subd. (a).

<sup>20</sup> Sections 84200, *et seq.*

<sup>21</sup> Section 81002, subd. (f).

<sup>22</sup> Section 84104.

<sup>23</sup> Regulation 18401.

<sup>24</sup> Regulation 18401, subd. (a)(2)(B).



it would if it were making the payment on its own.<sup>25</sup> Disclosure of the expenditures made by an agent or independent contractor are required to be made at the same time and in the same manner and detail as required for the committee's direct expenditures.<sup>26</sup> Specifically, the following information must be provided: (1) the subvendor's full name; (2) his or her street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made.<sup>27</sup> This information reported by the candidate or committee is commonly referred to as "subvendor information."

A "candidate" includes, in relevant part, an individual who is listed on the ballot for election to any elective office.<sup>28</sup> In 2014, a "committee" included any person or combination of persons who received contributions totaling \$1,000 or more in a calendar year,<sup>29</sup> commonly known as a "recipient committee."

At the core of the Act's campaign reporting system is the requirement that committees file campaign statements and reports for certain reporting periods, by certain deadlines, and including certain information.<sup>30</sup>

The Act requires recipient committees to file semiannual campaign statements twice per year disclosing their campaign contributions and expenditures. A recipient committee must file a semiannual statement by January 31 for the period ending December 31 and by July 31 for the period ending June 30, or the next business day if the deadline falls on a weekend or holiday.<sup>31</sup>

Each candidate or committee that makes or receives a late contribution must file a report within 24 hours of making or receiving the contribution.<sup>32</sup> A "late contribution" includes a contribution aggregating \$1,000 or more that is made to or received by a candidate, controlled committee, or primarily formed committee within 90 days before the date of the election at which the pertinent candidate or measure is to be voted on.<sup>33</sup>

Every committee must have a treasurer.<sup>34</sup> It is the duty of a committee treasurer to ensure that the committee complies with the campaign reporting provisions of the Act.<sup>35</sup> A treasurer may be held jointly and severally liable, along with the candidate and the committee, for violations committed by the committee.<sup>36</sup>

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<sup>25</sup> Section 84303.

<sup>26</sup> Regulation 18431, subd. (c); Section 84211, subd. (k).

<sup>27</sup> Section 84211, subs. (k)(1)-(4) and (6).

<sup>28</sup> Section 82007.

<sup>29</sup> Former Section 82013, subd. (a).

<sup>30</sup> Sections 84200, *et seq.*

<sup>31</sup> Section 84200, subd. (a); Regulation 18116, subd. (a).

<sup>32</sup> Section 84203.

<sup>33</sup> Section 82036.

<sup>34</sup> Section 84100.

<sup>35</sup> Sections 81004, 84100, 84104, and 84213; Regulation 18427.

<sup>36</sup> Sections 83116.5 and 91006.

## SUMMARY OF THE EVIDENCE

The Committee filed its initial statement of organization on February 26, 2014. (Certification, Exhibit A-9.) On March 10, 2014, the Committee filed an amendment to its statement of organization, providing that it qualified on March 3, 2014. (Certification, Exhibit A-10.) The Committee was the subject of a Franchise Tax Board audit. During the audit period of January 1, 2014 through June 30, 2014, the Committee received \$65,812.96 in contributions and made \$64,049.60 in expenditures. Wyman was unsuccessful in the June 3, 2014 Primary Election, receiving approximately 11.7 percent of the vote.

The Committee and O'Hearn failed to maintain adequate records in conjunction with Wyman's campaign. In particular, the Committee failed to produce proper source documentation for a total of \$29,863 in contributions received during the reporting periods of March 18, 2014 to May 17, 2014 and May 18, 2014 to June 30, 2014. Of this amount, \$5,250 was reported as loans from Wyman, and \$24,613 was reported as being received from nine other contributors. The Committee and O'Hearn also failed to maintain sufficient records for a total of \$1,207.49 in expenditures made during the reporting period of May 18, 2014 to June 30, 2014, including payments for office expenses and advertisements.

The Committee and O'Hearn also failed to timely report certain subvendor information on a campaign statement. Specifically, the Committee failed to timely report any subvendor information for a total of \$7,000 in expenditures for radio advertisements made through the vendor Salem Media Reps during the reporting period of May 18, 2014 to June 30, 2014. The \$7,000 payment to Salem Media Reps was timely reported on the campaign statement.

The Committee and O'Hearn failed to timely file certain semiannual campaign statements. The last campaign statement filed by the Committee and O'Hearn was the semiannual campaign statement for the reporting period of July 1, 2017 to December 31, 2017, which reported a beginning cash balance of \$785.52, no financial activity during the period, and an ending cash balance of \$785.52. (Certification, Exhibit A-11.) Since the Committee has not terminated, its filing obligations are continuing. Therefore, the Committee and O'Hearn was required to file a semiannual campaign statement for the reporting period of January 1, 2018 to June 30, 2018, by July 31, 2018, and a semiannual campaign statement for the reporting period July 1, 2018 to December 31, 2018, by January 31, 2019; however, as of the date of this Accusation, the Committee has failed to file these campaign statements.

Finally, the Committee and O'Hearn failed to timely file 24-hour contribution reports for three late contributions received in advance of the election. In particular, the Committee and O'Hearn failed to timely file a 24-hour report for candidate loans of \$15,000 and \$5,000 received on April 25, 2014, and a \$1,000 contribution received on May 20, 2014. The pertinent reports were filed on May 11, 2014 (13 days late) and May 22, 2014 (one day late), respectively.

## Summary of Contacts

Overall, Respondents were contacted at least 14 times regarding this case, as follows:

- May 16, 2017: email from Enforcement Division
- August 10, 2017: email from Enforcement Division
- March 2, 2018: email from and phone call with Enforcement Division
- August 1, 2018: correspondence from Enforcement Division
- January 9, 2019: email from Enforcement Division
- January 11, 2019: voicemail from Enforcement Division
- April 11, 2019: email from Enforcement Division
- April 18, 2019: phone call with Enforcement Division
- April 19, 2019: email from Enforcement Division
- April 20, 2019: Report in Support of a Finding of Probable Cause served on the Committee and O'Hearn
- July 3, 2019: letter and email from Enforcement Division
- July 25, 2019: email from Enforcement Division
- August 19, 2019: copy of Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served mailed to the Committee and O'Hearn
- December 18, 2019: Accusation served upon the Committee and O'Hearn

## **VIOLATIONS**

The Committee and O'Hearn committed four violations of the Act, as follows:

### COUNT 1

#### **Failure to Maintain Campaign Records**

The Committee and O'Hearn failed to maintain adequate source documentation for contributions amounting to \$29,863 and expenditures amounting to \$1,207.49, in violation of Section 84104 and Regulation 18401.

### COUNT 2

#### **Failure to Timely Report Subvendor Payments**

The Committee and O'Hearn failed to timely report \$7,000 in subvendor payments for the reporting period of May 18, 2014 to June 30, 2014, in violation of Sections 84303 and 84211, subdivision (k)(6).

COUNT 3

**Failure to Timely File Semiannual Campaign Statements**

The Committee and O’Hearn failed to timely file the Committee’s semiannual campaign statements for the reporting periods of January 1, 2018 to June 30, 2018, and July 1, 2018 to December 31, 2018, in violation of Section 84200, subdivision (a).

COUNT 4

**Failure to Timely File 24-Hour Contribution Report**

The Committee and O’Hearn failed to timely file two 24-hour contribution reports for late contributions totaling \$21,000 received on April 25, 2014 and May 20, 2014, in violation of Section 84203.

**CONCLUSION**

This matter consists of four counts of violating the Act, which carry a maximum total administrative penalty of \$20,000.<sup>37</sup>

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5 subdivision (d)(1) through (6): (1) The seriousness of the violation; (2) The presence or absence of any intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or inadvertent; (4) 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); (5) 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 (6) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

Here, the Enforcement Division did not find any evidence that Respondents intended to conceal, deceive, or mislead the public. Further, Respondents do not have a prior history of violating the Act; therefore, the violations contained herein do not appear to be part of a pattern of disregard for the Act. However, O’Hearn was largely uncooperative with the Enforcement Division’s investigation in this matter.

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<sup>37</sup> Section 83116, subd. (c).

The Enforcement Division also takes into consideration previous cases that were approved by the Commission in determining penalties. In this matter, the following cases were used as guidance:

Count 1

- *In the Matter of Committee to Clean House and Kevin McVey*; FPPC No. 15/2202. Respondents, a primarily formed ballot measure committee and its principal officer, failed to maintain adequate records for 100 percent of contributions received, amounting to \$10,486.50; and approximately 93 percent of expenditures made, amounting to \$7,836, in violation of Section 84104 and Regulation 18401. In March 2019, the Commission approved a default decision imposing a fine of \$3,000 on one count.

Count 2

- *In the Matter of Patrick J. Furey, Pat Furey for Mayor 2014, Torrance Voters PAC to Support Pat Furey for Mayor 2014, Richard Roesch, and Tina McKinnor*; FPPC No. 14/1118. Respondents, a recipient committee and its principal officer and treasurer, failed to timely report a total of \$36,418.16 in subvendor payments on two different campaign statements, in violation of Sections 84211, subdivision (k), and 84303. In March 2016, the Commission approved a penalty of \$4,000 on each of two counts.

Count 3

- *In the Matter of Murga for City Council 2016 and Raul Murga*; FPPC No. 17/245. Respondents, a candidate-treasurer and his controlled committee, failed to timely file four semiannual campaign statements, in violation of Section 84200. The statements were not filed at the time of the default decision. In November 2019, the Commission approved a default decision imposing a fine of \$4,000 on each of four counts.

Count 4

- *In the Matter of Eric Payne and Eric Payne for SCCCD 2016 Trustee Area 2*; FPPC No. 16/19917. Respondents, a candidate-treasurer and his controlled committee, failed to timely file four 24-hour contribution reports for \$6,300 in late contributions, in violation of Section 84203. In June 2019, the Commission approved a default decision imposing a fine of \$4,000 on each of four counts.

**PROPOSED PENALTY**

After considering the factors of Regulation 18361.5 and the penalties imposed in prior cases, the following penalties are proposed:

<b>Count</b>	<b>Violation</b>	<b>Proposed Penalty</b>
1	Failure to Maintain Campaign Records	\$3,000
2	Failure to Timely Report Subvendor Payments	\$4,000
3	Failure to Timely File Semiannual Campaign Statements	\$4,000
4	Failure to Timely File 24-Hour Contribution Reports	\$4,000
<b>TOTAL:</b>		<b>\$15,000</b>



**DECLARATION OF CUSTODIAN OF RECORDS  
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION  
Enforcement Division**

**CERTIFICATION OF RECORDS**

The undersigned declares and certifies as follows:

1. I am employed as an Associate Governmental Program Analyst by the California Fair Political Practices Commission (Commission). My business address is: California Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811.
2. I am a duly authorized custodian of the records maintained by the Commission in the Enforcement Division. As such, I am authorized to certify copies of those records as being true and correct copies of the original business records which are in the custody of the Commission.
3. I have reviewed documents maintained in *FPPC Case No. 17/378; Wyman for Attorney General 2014 and James M. O'Hearn*, and have caused copies to be made of documents contained therein. I certify that the copies attached hereto are true and correct copies of the documents prepared in the normal course of business and which are contained in files maintained by the Commission. The attached documents are as follows:

EXHIBIT A-1: Report in Support of a Finding of Probable Cause, dated April 4, 2019

EXHIBIT A-2: Proof of Service for the Report in Support of a Finding of Probable Cause and applicable statutes and regulations, dated April 18, 2019, and Return Receipt indicating service on April 20, 2019

EXHIBIT A-3: Cover letter to the respondents regarding the Report in Support of a Finding of Probable Cause, memorandum describing Probable Cause Proceedings, and applicable statutes and regulations, dated April 4, 2019

EXHIBIT A-4: Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served, dated August 19, 2019

EXHIBIT A-5: Finding of Probable Cause and Order to Prepare and Serve an Accusation and Proof of Service, dated September 10, 2019

EXHIBIT A-6: Accusation, dated October 4, 2019

- EXHIBIT A-7: Proof of Service on December 18, 2019, for Accusation and accompanying documents from process server, dated December 20, 2019
- EXHIBIT A-8: Statement to the Respondent, Notices of Defense, applicable statutes, and Proof of Service for Accusation and accompanying documents, dated October 7, 2019
- EXHIBIT A-9: Statement of organization filed by Wyman for Attorney General 2014 on February 26, 2014
- EXHIBIT A-10: Amendment to statement of organization filed by Wyman for Attorney General 2014 on March 10, 2014
- EXHIBIT A-11: Semiannual campaign statement for the period of July 1, 2017 to December 31, 2017, filed by Wyman for Attorney General 2014 on March 26, 2018
- EXHIBIT A-12: Notice of Default Decision and Order, dated January 21, 2020
- EXHIBIT A-13: Final Notice of Default Decision and Order, dated February 20, 2020

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 21, 2020 at Sacramento, California.



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Dominika Wojenska  
Associate Governmental Program Analyst  
Enforcement Division  
Fair Political Practices Commission



**Exhibit A-1**

1 GALENA WEST  
Chief of Enforcement  
2 CHRISTOPHER BURTON  
Senior Commission Counsel  
3 **FAIR POLITICAL PRACTICES COMMISSION**  
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4 Sacramento, CA 95811  
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5 Email: cburton@fppc.ca.gov

6 Attorney for Complainant  
Enforcement Division of the Fair Political Practices Commission  
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8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**  
9 **STATE OF CALIFORNIA**  
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11 In the Matter of ) FPPC No. 17/378  
12 )  
13 ) **REPORT IN SUPPORT OF A FINDING OF**  
14 ) **PROBABLE CAUSE**  
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WYMAN FOR ATTORNEY GENERAL )  
2014, PHILLIP D. WYMAN, AND )  
JAMES M. O’HEARN, )  
Respondents. )  
Conference Date: TBA  
Conference Time: TBA  
Conference Location: Commission Offices  
1102 Q Street, Suite 3000  
Sacramento, CA 95811

**INTRODUCTION**

Respondent Phillip D. Wyman (“Wyman”) was a candidate for California Attorney General in the June 3, 2014 Primary Election. Wyman for Attorney General 2014 (the “Committee”) is the controlled committee of Wyman. James M. O’Hearn (“O’Hearn”) is the treasurer for the Committee.

The Committee was the subject of a Franchise Tax Board audit, which revealed that Respondents committed numerous violations of the Political Reform Act (the “Act”),<sup>1</sup> including a failure to meet the recordkeeping requirements of the Act, violations of the Act’s campaign bank

<sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 account provisions, improper acceptance of cash contributions, a failure to timely report information  
2 regarding payments made to subvendors, and a failure to timely file required 24-hour contribution  
3 reports. The Committee also failed to timely file two semiannual campaign statements.

#### 4 **SUMMARY OF THE LAW**

5 The Act and its regulations are amended from time to time. The discussion below regarding  
6 jurisdiction, the standard for finding probable cause, and the contents of the probable cause report  
7 includes references to current law. Unless otherwise noted, all other legal references and discussions of  
8 law pertain to the Act's provisions as they existed at the time of the violations in this case.

#### 9 Jurisdiction

10 The Fair Political Practices Commission (the "Commission") has primary responsibility for the  
11 impartial, effective administration and implementation of the Act.<sup>2</sup> This includes enforcement through  
12 administrative prosecution.<sup>3</sup> However, before the Commission's Enforcement Division may commence  
13 administrative prosecution by filing/serving an Accusation, a hearing officer (either the General  
14 Counsel of the Commission or another attorney in the Commission's Legal Division) must determine  
15 whether there is probable cause to believe that one or more violations of the Act occurred.<sup>4</sup> Any  
16 finding of probable cause is required by law to be announced publicly, which includes the posting of a  
17 summary of the allegations on the Commission's website.<sup>5</sup> After a finding of probable cause, the  
18 Commission may then hold a hearing to determine what violations have occurred—and levy an  
19 administrative penalty of up to \$5,000 for each violation.<sup>6</sup>

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24 <sup>2</sup> Section 83111.

25 <sup>3</sup> Section 83116.

26 <sup>4</sup> Sections 83115.5 and 83116; Regulations 18361, subd. (b), and 18361.4.

27 <sup>5</sup> Regulation 18361.4, subd. (e).

28 <sup>6</sup> Section 83116; Regulation 18361.4, subd. (e).

1 Standard for Finding Probable Cause

2 For the hearing officer to make a finding of probable cause, it is only necessary that he or she be  
3 presented with sufficient evidence to lead a person of ordinary caution and prudence to believe, or  
4 entertain a strong suspicion, that a proposed respondent committed or caused a violation.<sup>7</sup>

5 Contents of the Probable Cause Report

6 The probable cause report is required to contain a summary of the law and evidence gathered in  
7 connection with the investigation, including any exculpatory and mitigating information of which the  
8 staff has knowledge and any other relevant material and arguments. The evidence recited in the  
9 probable cause report may include hearsay.<sup>8</sup>

10 Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

11 When enacting the Act, the people of California found and declared that previous laws  
12 regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>9</sup> For  
13 this reason, the Act is to be construed liberally to accomplish its purposes.<sup>10</sup>

14 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in  
15 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
16 practices are inhibited.<sup>11</sup> Along these lines, the Act includes a comprehensive campaign reporting  
17 system.<sup>12</sup> Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act  
18 will be “vigorously enforced.”<sup>13</sup>

19 Recordkeeping Requirements

20 Candidates and treasurers have a duty to maintain detailed accounts, records, bills, and receipts  
21 necessary to prepare campaign statements and establish campaign statements were properly filed.<sup>14</sup>

22  
23 <sup>7</sup> Section 83115.5; Regulation 18361.4, subd. (e).

24 <sup>8</sup> Regulation 18361.4, subd. (a).

25 <sup>9</sup> Section 81001, subd. (h).

26 <sup>10</sup> Section 81003.

27 <sup>11</sup> Section 81002, subd. (a).

28 <sup>12</sup> Sections 84200, *et seq.*

<sup>13</sup> Section 81002, subd. (f).

<sup>14</sup> Section 84104.

1 This duty includes maintenance of detailed information and original source documentation for a period  
2 of four years following the date the campaign statement to which they relate is filed.<sup>15</sup> Examples of  
3 original source documentation that must be maintained include copies of contributor checks, deposit  
4 slips, and contributor cards for contributions of \$25 or more.<sup>16</sup>

#### 5 One Bank Account Rule

6 To ensure full disclosure of campaign activity and to guard against improper use of campaign  
7 funds, a candidate must establish a single, designated campaign bank account upon filing a statement of  
8 intention to be a candidate.<sup>17</sup> All campaign contributions and loans must be deposited into the  
9 campaign account.<sup>18</sup> Personal funds of the candidate that will be used for the campaign must be  
10 deposited in the campaign account prior to expenditure.<sup>19</sup> All campaign expenditures must be made  
11 from the campaign account.<sup>20</sup>

#### 12 Prohibited Cash Contributions of \$100 or More

13 No contribution of \$100 or more may be made or received in cash.<sup>21</sup> All contributions of \$100  
14 or more must be made in the form of a written instrument containing the name of the contributor and  
15 the name of the payee, and drawn from the account of the contributor.<sup>22</sup>

#### 16 Duty to Report Subvendor Payments

17 A subvendor is a person or company that is hired by a committee's agent or independent  
18 contractor to provide a good or service for the committee. The Act requires committees to report  
19 payments of \$500 or more made on its behalf by an agent or independent contractor the same way it  
20 would if it were making the payment on its own.<sup>23</sup> Disclosure of the expenditures made by an agent or  
21 independent contractor are required to be made at the same time and in the same manner and detail as

22 \_\_\_\_\_  
23 <sup>15</sup> Regulation 18401.

<sup>16</sup> Regulation 18401, subd. (a)(2)(B).

24 <sup>17</sup> Section 85201, subd. (a).

<sup>18</sup> Section 85201, subd. (c).

25 <sup>19</sup> Section 85201, subd. (d).

<sup>20</sup> Section 85201, subd. (e).

26 <sup>21</sup> Section 84300, subd. (a).

<sup>22</sup> Section 84300, subd. (c).

27 <sup>23</sup> Section 84303.

1 required for the committee's direct expenditures.<sup>24</sup> Specifically, the following information must be  
2 provided: (1) the subvendor's full name; (2) his or her street address; (3) the amount of each  
3 expenditure; and (4) a brief description of the consideration for which each expenditure was made.<sup>25</sup>  
4 This information reported by the candidate or committee is commonly referred to as "subvendor  
5 information."

#### 6 Mandatory Filing of Campaign Statements

7 At the core of the Act's campaign reporting system is the requirement that committees file  
8 campaign statements and reports for certain reporting periods, by certain deadlines, and including  
9 certain information.<sup>26</sup>

10 The Act requires recipient committees to file semiannual campaign statements twice per year  
11 disclosing their campaign contributions and expenditures. A recipient committee must file a  
12 semiannual statement by January 31 for the period ending December 31 and by July 31 for the period  
13 ending June 30, or the next business day if the deadline falls on a weekend or holiday.<sup>27</sup>

#### 14 Duty to File 24-Hour Contribution Reports

15 Each candidate or committee that makes or receives a late contribution must file a report within  
16 24 hours of making or receiving the contribution.<sup>28</sup> A "late contribution" includes a contribution  
17 aggregating \$1,000 or more that is made to or received by a candidate, controlled committee, or  
18 primarily formed committee within 90 days before the date of the election at which the pertinent  
19 candidate or measure is to be voted on.<sup>29</sup>

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24 <sup>24</sup> Regulation 18431, subd. (c); Section 84211, subd. (k).

25 <sup>25</sup> Section 84211, subds. (k)(1)-(4) and (6).

26 <sup>26</sup> Sections 84200, *et seq.*

27 <sup>27</sup> Section 84200, subd. (a); Regulation 18116, subd. (a).

28 <sup>28</sup> Section 84203.

29 <sup>29</sup> Section 82036.

1                                    Joint and Several Liability of Candidate, Committee, and Treasurer

2            Every committee must have a treasurer.<sup>30</sup> It is the duty of a committee treasurer to ensure that  
3 the committee complies with the campaign reporting provisions of the Act.<sup>31</sup> A treasurer may be held  
4 jointly and severally liable, along with the candidate and the committee, for violations committed by  
5 the committee.<sup>32</sup>

6                                    **SUMMARY OF THE EVIDENCE**

7            The Committee qualified on March 3, 2014 and remains active. During the audit period of  
8 January 1, 2014 through June 30, 2014, the Committee received \$65,812.96 in contributions and made  
9 \$64,049.60 in expenditures. Wyman was unsuccessful in the June 3, 2014 Primary Election, receiving  
10 approximately 11.7 percent of the vote.

11            The Committee failed to maintain adequate records in conjunction with Wyman's campaign. In  
12 particular, the Committee failed to produce proper source documentation for a total of \$29,863 in  
13 contributions received during the reporting periods of March 18, 2014 to May 17, 2014 and May 18,  
14 2014 to June 30, 2014. Of this amount, \$5,250 was reported as loans from Wyman, and \$24,613 was  
15 reported as being received from nine other contributors. The Committee also failed to maintain  
16 sufficient records for a total of \$1,207.49 in expenditures made during the reporting period of May 18,  
17 2014 to June 30, 2014, including payments for office expenses and advertisements.

18            The Committee also violated the one bank account rule. The Committee made three separate  
19 payments of \$5,000 to Landslide Communications, on April 24 and 25, 2014, for Wyman's appearance  
20 on slate mailers; however, these payments were not run through the campaign bank account. Instead,  
21 the \$15,000 in expenditures were made from a Chase credit card held in the name of Wyman.

22            In addition, the Committee made certain payments to an American Express card in the name of  
23 Wyman, indicating that the corresponding expenditures made from that account were done outside of  
24 the campaign bank account. The subject American Express payments included a \$2,639.22 payment

25                                    <sup>30</sup> Section 84100.

26                                    <sup>31</sup> Sections 81004, 84100, 84104, and 84213; Regulation 18427.

27                                    <sup>32</sup> Sections 83116.5 and 91006.

1 made during the reporting period of May 18, 2014 to June 30, 2014 for “travel/meals/web exp;” and a  
2 \$1,680.86 payment made during the reporting period of July 1, 2014 to December 31, 2014 for  
3 “travel/lodg/meals/web exp.”

4 The Committee also improperly accepted a cash contribution of \$100 or more. On June 6,  
5 2014, the Committee received a \$500 contribution in the form of a postal money order from contributor  
6 Riverside Cement.

7 The Committee also failed to timely report certain subvendor information on a campaign  
8 statement. Specifically, the Committee failed to timely report any subvendor information for a total of  
9 \$7,000 in expenditures for radio advertisements made through the vendor Salem Media Reps during the  
10 reporting period of May 18, 2014 to June 30, 2014. The \$7,000 payment to Salem Media Reps was  
11 timely reported on the campaign statement.

12 The Committee failed to timely file certain semiannual campaign statements. The last  
13 campaign statement filed by the Committee was the semiannual campaign statement for the reporting  
14 period of July 1, 2017 to December 31, 2017, which reported a beginning cash balance of \$785.52, no  
15 financial activity during the period, and an ending cash balance of \$785.52. Since the Committee has  
16 not terminated, its filing obligations are continuing. Therefore, the Committee was required to file a  
17 semiannual campaign statement for the reporting period of January 1, 2018 to June 30, 2018, by July  
18 31, 2018, and a semiannual campaign statement for the reporting period July 1, 2018 to December 31,  
19 2018, by January 31, 2019; however, as of the date of this report, the Committee has failed to file these  
20 campaign statements.

21 Finally, the Committee failed to timely file 24-hour contribution reports for three late  
22 contributions received in advance of the election. In particular, the Committee failed to timely file a  
23 24-hour report for candidate loans of \$15,000 and \$5,000 received on April 25, 2014, and a \$1,000  
24 contribution received on May 20, 2014. The pertinent reports were filed on May 11, 2014 (13 days  
25 late) and May 22, 2014 (one day late), respectively.

26 ///



1 **VIOLATIONS**

2 Count 1: Failure to Maintain Campaign Records

3 The Committee, Wyman, and O’Hearn failed to maintain adequate source documentation for  
4 contributions amounting to \$29,863 and expenditures amounting to \$1,207.49, in violation of Section  
5 84104 and Regulation 18401.

6 Count 2: Failure to Pay Expenditures from Campaign Bank Account

7 The Committee, Wyman, and O’Hearn failed to pay \$19,320.08 in expenditures from the  
8 designated campaign bank account, in violation of Section 85201, subdivisions (d) and (e).

9 Count 3: Unlawful Cash Contribution of \$100 or More

10 The Committee, Wyman, and O’Hearn accepted a cash contribution of \$100 or more, in  
11 violation of Section 84300, subdivision (a).

12 Count 4: Failure to Timely Report Subvendor Payments

13 The Committee, Wyman, and O’Hearn failed to timely report \$7,000 in subvendor payments for  
14 the reporting period of May 18, 2014 to June 30, 2014, in violation of Sections 84303 and 84211,  
15 subdivision (k)(6).

16 Count 5: Failure to Timely File Semiannual Campaign Statement

17 The Committee, Wyman, and O’Hearn failed to timely file the Committee’s semiannual  
18 campaign statement for the reporting period of January 1, 2018 to June 30, 2018, in violation of Section  
19 84200, subdivision (a).

20 Count 6: Failure to Timely File Semiannual Campaign Statement

21 The Committee, Wyman, and O’Hearn failed to timely file the Committee’s semiannual  
22 campaign statement for the reporting period of July 1, 2018 to December 31, 2018, in violation of  
23 Section 84200, subdivision (a).

24 Count 7: Failure to Timely File 24-Hour Contribution Report

25 The Committee, Wyman, and O’Hearn failed to timely file a 24-hour contribution report for late  
26 contributions totaling \$20,000 received on April 25, 2014, in violation of Section 84203.

1 Count 8: Failure to Timely File 24-Hour Contribution Report

2 The Committee, Wyman, and O’Hearn failed to timely file a 24-hour contribution report for a  
3 late contributions in the amount of \$1,000 received on May 20, 2014, in violation of Section 84203.

4 **EXCULPATORY OR MITIGATING INFORMATION**

5 The Enforcement Division is not aware of any exculpatory or mitigating information.

6 **CONCLUSION**


7 Probable cause exists to believe that the Committee, Wyman, and O’Hearn violated the Act as  
8 detailed above. The Enforcement Division respectfully requests an order finding probable cause  
9 pursuant to Section 83115.5 and Regulation 18361.4.

10  
11 Dated: April 4, 2019

12 Respectfully Submitted,

13 **FAIR POLITICAL PRACTICES COMMISSION**

14 Galena West  
15 Enforcement Chief

16   
17 \_\_\_\_\_  
18 By: Christopher Burton  
19 Senior Commission Counsel  
20 Enforcement Division  
21  
22  
23  
24  
25  
26  
27

**Exhibit A-2**

**PROOF OF SERVICE**

At the time of service, I was over 18 years of age and not a party to this action. My business address is: Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811. On April 18, 2019, I served the following document(s):

1. Letter dated April 4, 2019 from Christopher Burton;
2. FPPC No. 17/378 Report in Support of a Finding of Probable Cause;
3. Probable Cause Fact Sheet;
4. Selected Sections of the California Government Code regarding Probable Cause Proceedings for the Fair Political Practices Commission; and
5. Selected Regulations of the Fair Political Practices Commission regarding Probable Cause Proceedings

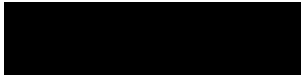
By Personal Delivery. I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By United States Postal Service. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the addresses listed below and placed the envelope or package for collection and mailing by certified mail, return receipt requested, following my company's ordinary business practices. I am readily familiar with this business' practice for collection and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

**SERVICE LIST**

Certified Mail, Return Receipt Requested

James M. O'Hearn  


I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 18, 2019.

  
\_\_\_\_\_  
Christopher B. Burton

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or PO Box No. [REDACTED]

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**Get Updates** ✓

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#### **Text & Email Updates**



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#### **Tracking History**



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BAKERSFIELD, CA 93312

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##### **April 19, 2019, 9:58 pm**

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##### **April 18, 2019, 10:28 pm**

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\*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

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**Exhibit A-3**



FAIR POLITICAL PRACTICES COMMISSION

1102 Q Street • Suite 3000 • Sacramento, CA 95811

April 4, 2019

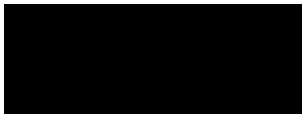
**CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Wyman for Attorney General 2014

Phillip D. Wyman



James M. O'Hearn



**In the Matter of WYMAN FOR ATTORNEY GENERAL 2014, PHILLIP D. WYMAN,  
and JAMES M. O'HEARN; FPPC No. 17/378**

Dear Messrs. Wyman and O'Hearn:

The Enforcement Division of the Fair Political Practices Commission (the "Commission") is proceeding with an administrative action against you for your failure to comply with the filing, disclosure, bank account, cash contributions, and recordkeeping provisions of the Political Reform Act (the "Act"). The enclosed Report in Support of a Finding of Probable Cause (the "Report") contains a summary of the alleged violations and the relevant law and evidence.

You have the right to file a written response to the Report. That response may contain any information you think is relevant and that you wish to bring to the attention of the Hearing Officer. In your response, please indicate whether you would like the Hearing Officer to make a determination of probable cause based on the written materials alone (the Report and your response) or request a conference, during which you may orally present your case to the Hearing Officer. Probable cause conferences are held in our office, which is located at 1102 Q Street, Suite 3000, Sacramento, CA 95811. You may appear at the conference in person or by telephone and you are entitled to be represented by counsel. *If you wish to submit a written response or request a probable cause conference, it must be filed with the Commission Assistant at the address listed above within 21 days from the date of service of this letter.* You can reach the Commission Assistant at (916) 327-8269.

Please note that probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether there is probable cause to believe that the Act was violated. However, settlement discussions are encouraged by the Commission and may take place at any time except during a probable cause conference. ***If you are interested in reaching a settlement in this matter, please contact me at (916) 322-5021 or [cburton@fppc.ca.gov](mailto:cburton@fppc.ca.gov).***

Finally, you have the right to request discovery of the evidence in possession of, and relied upon by, the Enforcement Division. ***This request must also be filed with the Commission Assistant within 21 days from the date of service of this letter.*** Should you request discovery, the Enforcement Division will provide the evidence by service of process or certified mail. From the date you are served with the evidence, you would have an additional 21 days to file a written response to the Report, just as described above.

***Should you take no action within 21 days from the date of service of this letter, your rights to respond and to request a conference are automatically waived and the Enforcement Division will independently pursue the issuance of an accusation.***

For your convenience, I have enclosed a fact sheet on probable cause proceedings and copies of the most relevant statutes and regulations.

Sincerely,



Christopher B. Burton  
Senior Commission Counsel  
Enforcement Division

Enclosures

## PROBABLE CAUSE FACT SHEET

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### INTRODUCTION

The Fair Political Practices Commission is required by law to determine whether probable cause exists to believe that the Political Reform Act (the "Act") was violated before a public administrative accusation may be issued.

The probable cause proceedings before the Fair Political Practices Commission are unique, and most respondents and their attorneys are unfamiliar with them. Therefore, we have prepared this summary to acquaint you with the process.

### THE LAW

Government Code sections 83115.5 and 83116 set forth the basic requirement that a finding of probable cause be made in a "private" proceeding before a public accusation is issued and a public hearing conducted in accordance with the Administrative Procedure Act.

The Commission has promulgated regulations further defining the probable cause procedure and delegating to the General Counsel (the "Hearing Officer" for purposes of these proceedings) the authority to preside over such proceedings and decide probable cause. A copy of these statutes and regulations are attached for your convenience.

In summary, the statutes and regulations entitle you to the following:

- a) A written probable cause report containing a summary of the law alleged to have been violated, and a summary of the evidence, including any exculpatory and mitigating information and any other relevant material and arguments;
- b) The opportunity to request discovery, respond in writing, and to request a probable cause conference within 21 days of service of the probable cause report;
- c) If the Commission met to consider whether a civil lawsuit should be filed in this matter, a copy of any staff memoranda submitted to the Commission and a transcript of staff discussions with the Commission at any such meeting; and
- d) If a timely request was made, a non-public conference with the General Counsel and the Enforcement Division staff to consider whether or not probable cause exists to believe the Act was violated.

### THE PROCEDURE

#### Probable Cause Report

Administrative enforcement proceedings are commenced with the service, by registered or certified mail or in person, of a probable cause report. The report will contain a summary of the law and the evidence, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. It is filed with the Hearing Officer.

### **Discovery**

Within 21 calendar days following the service of the probable cause report, you may request discovery of the evidence in the possession of the Enforcement Division. This is not a right to full discovery of the Enforcement Division file, but to the evidence relied upon by the Division along with any exculpatory or mitigating evidence<sup>1</sup>.

This request must be sent by registered or certified mail to the Commission Assistant.

### **Response to Probable Cause Report**

Within 21 calendar days following the service of the probable cause report (or, if you timely requested discovery, within 21 calendar days from the service of the evidence) you may submit a response to the Report. By regulation, the written response may contain, "... a summary of evidence, legal arguments, and any mitigating or exculpatory information." (Cal. Code Regs., tit. 2, § 18361.4, subd. (c).)

You must file your response with the Commission Assistant and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report.

### **Staff Reply**

Within 10 calendar days following the date the response was filed with the Commission Assistant, Commission staff may submit any evidence or argument in rebuttal. You will be served with a copy of any such reply.

### **Probable Cause Conference**

Probable cause conferences are held at the offices of the Fair Political Practices Commission, which is located at 428 J Street, Ste. 620, Sacramento, CA 95814. You may appear at the conference in person or by telephone. The proceedings are not public unless all proposed respondents agree to open the conference to the public. Otherwise, the probable cause report, any written responses, and the probable cause conference itself are confidential.

Unless the probable cause conference is public, the only persons who may attend are the staff of the Commission, any proposed respondent and his or her attorney or representative, and, at the discretion of the Hearing Officer, witnesses.

The Hearing Officer may, but need not, permit testimony from witnesses. Probable cause conferences are less formal than court proceedings. The rules of evidence do not apply. The conferences will be recorded and a copy of the recording will be provided upon request.

Since it has the burden of proof, the Enforcement Division is permitted to open and close the conference presentations. The Hearing Officer may also hold the record open to receive additional evidence or arguments.

Probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether or not there is probable cause to believe that the

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<sup>1</sup> But see Title 2, California Code of Regulations, Section 18362, which states that the Commission provides access to complaints, responses to complaints, and investigative files and information in accordance with the requirements of the Public Records Act. (Govt. Code § 6250, et seq.)

Political Reform Act was violated. Anyone who wishes to discuss settlement with the Enforcement Division may do so before or after the probable cause conference but not during the conference.

Pursuant to Title 2, California Code of Regulations, Section 18361.4, subdivision (e), the Hearing Officer will find probable cause "if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation."

Ordinarily, probable cause determinations are made based upon the written probable cause report, any written response by the respondent, any written reply by the Enforcement Division, and the oral arguments presented at the conference. Timely written presentations are strongly recommended.

### **Probable Cause Order and Accusation**

Once the matter is submitted to the Hearing Officer, the probable cause decision will normally be made within ten days. If the Hearing Officer finds probable cause, he will issue a Finding of Probable Cause, which will be publicly announced at the next Commission Meeting. An accusation will be issued soon after the Finding of Probable Cause is publicly announced.

### **Continuances**

Every reasonable effort is made to accommodate the schedules of parties and counsel. However, once a date has been set it is assumed to be firm and will not be continued except upon the order of the Hearing Officer after a showing of good cause. Settlement negotiations will be considered good cause only if the Hearing Officer is presented with a fully executed settlement, or is convinced that settlement is imminent.

### **Settlements**

Settlement discussions may take place at any time except during the probable cause conference. In order to open settlement discussions, a proposed respondent or his or her counsel or representative should present a written offer to settle stating, where appropriate, the violations to be admitted, and the monetary penalty or other remedy to be tendered.

The Enforcement Division attorney assigned to the case will negotiate any potential settlement on behalf of the Fair Political Practices Commission, and will draft the language of the settlement agreement. The Hearing Officer will not directly participate in the negotiations, but will be represented by Enforcement Division attorneys. Staff attorneys will present settlement offers to the Hearing Officer for his/her approval.

### **CONCLUSION**

This fact sheet was intended to give you a brief summary of the probable cause process at the Fair Political Practices Commission. Such a summary cannot answer every question that might arise in such proceedings. Therefore, if you have any questions that are not addressed by this fact sheet or the copies of the law and regulations we have attached, feel free to contact the attorney whose name appears on the probable cause report.

*Attachments: Relevant Sections of (1) California Government Code, and (2) Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations.*

## CALIFORNIA GOVERNMENT CODE

### Probable Cause Statutes

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#### **§ 83115.5. Probable cause; violation of title; notice of violation; summary of evidence; notice of rights; private proceedings**

No finding of probable cause to believe this title has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of his right to be present in person and represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the commission a written request that the proceeding be public.

#### **§ 83116. Violation of title; probable cause; hearing; order**

When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The Commission shall have all the powers granted by that chapter. When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (a) Cease and desist violation of this title.
- (b) File any reports, statements, or other documents or information required by this title.
- (c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

**REGULATIONS OF THE FAIR POLITICAL PRACTICES COMMISSION  
TITLE 2, DIVISION 6 OF THE CALIFORNIA CODE OF REGULATIONS**

**Probable Cause Regulations**

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**§ 18361 (b). Delegation by the Executive Director Pertaining to Enforcement Proceedings and Authority to Hear Probable Cause Proceedings.**

Probable cause proceedings under Regulation 18361.4 shall be heard by the General Counsel or an attorney from the Legal Division. The General Counsel may delegate the authority to hear probable cause proceedings, in writing, to an administrative law judge.

**§ 18361.4. Probable Cause Proceedings**

(a) Probable Cause Report. If the Chief of the Enforcement Division decides to commence probable cause proceedings pursuant to Sections 83115.5 and 83116, he or she shall direct the Enforcement Division staff to prepare a written report, hereafter referred to as "the probable cause report." The probable cause report shall contain a summary of the law and evidence gathered in connection with the investigation, including any exculpatory and mitigating information of which the staff has knowledge and any other relevant material and arguments. The evidence recited in the probable cause report may include hearsay, including declarations of investigators or others relating the statements of witnesses or concerning the examination of physical evidence.

(b) No probable cause hearing will take place until at least 21 calendar days after the Enforcement Division staff provides the following, by service of process or registered or certified mail with return receipt requested, to all proposed respondents:

- (1) A copy of the probable cause report;
- (2) Notification that the proposed respondents have the right to respond in writing to the probable cause report and to request a probable cause conference at which the proposed respondent may be present in person and represented by counsel, and;
- (3) If the Commission met in executive session on this matter pursuant to Regulation 18361.2, a copy of any staff memoranda submitted to the Commission at that time along with the recording of any discussion between the Commission and the staff at the executive session as required in subdivision (b) of Regulation 18361.2.

(c) Response to Probable Cause Report.

- (1) Each proposed respondent may submit a written response to the probable cause report. The response may contain a summary of evidence, legal arguments, and any mitigating or exculpatory information. A proposed respondent who submits a response must file it with the Commission Assistant who will forward the response to the General Counsel or an attorney in the Legal Division (the "hearing officer") and provide a copy, by service of process or registered or certified mail with return receipt requested, to all other proposed respondents listed in the probable cause report not later than 21 days following service of the probable cause report.
- (2) Within 21 calendar days following the service of the probable cause report, a proposed



respondent may request discovery of evidence in the possession of the Enforcement Division. This request must be sent by registered or certified mail to the Commission Assistant. Upon receipt of the request, the Enforcement Division shall provide discovery of evidence relied upon by the Enforcement Division sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation, along with any exculpatory or mitigating evidence. This is not a right to full discovery of the Enforcement Division file. The Enforcement Division shall provide access to documents for copying by the Respondent, or upon agreement among the parties, the Enforcement Division will provide copies of the requested documents upon payment of a fee for direct costs of duplication. The Enforcement Division shall provide such evidence by service of process or registered or certified mail with return receipt requested to all respondents, with a copy to the Commission Assistant. A respondent may submit a written response to the probable cause report described in subsection (1) no later than 21 calendar days after service of discovery.

- (3) The Commission staff may submit any evidence or argument in rebuttal to the response. When the Commission staff submits evidence or argument in rebuttal to the response, it shall provide a copy, by service of process or registered or certified mail with return receipt requested, to all proposed respondents listed in the probable cause report not later than 10 calendar days following the date the response was filed with the Commission Assistant. The hearing officer may extend the time limitations in this section for good cause. At any time prior to a determination of probable cause, the hearing officer may allow additional material to be submitted as part of the initial response or rebuttal.

(d) Probable Cause Conference. Any proposed respondent may request a probable cause conference. The request shall be served upon the Commission Assistant and all other proposed respondents not later than 21 days after service of the probable cause report unless the hearing officer extends the time for good cause. The Commission Assistant shall fix a time for the probable cause conference and the hearing officer shall conduct the conference informally. The conference shall be closed to the public unless a proposed respondent requests and all other proposed respondents agree to a public conference. If the conference is not public, only members of the Commission staff, any proposed respondent and his or her legal counsel or representative shall have the right to be present and participate. The hearing officer may allow witnesses to attend and participate in part or all of the probable cause conference. In making this determination, the hearing officer shall consider the relevancy of the witness' proposed testimony, whether the witness has a substantial interest in the proceedings, and whether fairness requires that the witness be allowed to participate. Representatives of any civil or criminal prosecutor with jurisdiction may attend the conference at the discretion of the hearing officer if they agree to respect the confidential nature of the proceedings. If the conference is not open to the public and none of the parties and the presiding officer object, the conference may be conducted in whole or in part by telephone. The probable cause conference shall be recorded. The hearing officer may determine whether there is probable cause based solely on the probable cause report, any responses or rebuttals filed and any arguments presented at the probable cause conference by the interested parties. If the hearing officer requires additional information before determining whether there is probable cause, he or she may permit any party to submit additional evidence at the probable cause conference.

(e) Finding of Probable Cause. The hearing officer may find there is probable cause to believe a violation has occurred if the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation. A finding of probable cause by the hearing officer does not constitute a finding that a violation has actually occurred. The hearing officer shall not make a finding of probable cause if he or she is presented with clear and convincing evidence that, at a time prior to the alleged violation, the violator consulted with the staff of the Commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice of the staff or because of the staff's failure to provide advice. If the hearing officer makes a finding of probable cause, the Enforcement Division shall prepare an Accusation pursuant to Section 11503 and have it served upon the person or persons who are subjects of the probable cause finding. The hearing officer shall publicly announce the finding of probable cause. The announcement shall contain a summary of the allegations and a cautionary statement that the respondent is presumed to be innocent of any violation of the Act unless a violation is proved in a subsequent proceeding. The Chief of the Enforcement Division shall be responsible for the presentation of the case in support of the Accusation at an administrative hearing held pursuant to Section 83116.

#### **§ 18362. Access to Enforcement Records**

(a) Production of Enforcement Records. The Commission will make complaints, investigative files, and related records available to the public and members of the media in accordance with the Public Records Act (Government Code Section 6250, et seq.) Enforcement records requests should specifically identify the documents sought.

(b) Format of Enforcement Records. The Commission will make records available for inspection at its office during office hours. The Commission may provide copies of requested records either in paper or electronic format to the person that requested the records in lieu of inspecting the records at the Commission offices. Any person requesting paper copies of records must reimburse the Commission ten cents (\$0.10) per page to pay the cost of copying, or supply copying equipment and make copies in the offices of the Commission. Original records of the Commission may not be removed from the offices of the Commission.

(c) Complaint Notice Period. The Commission may not provide or make available complaints or related records until after the disclosure periods provided in Regulation 18360.

#### **§ 18361.2. Memorandum Respecting Civil Litigation.**

(a) If the Executive Director concludes civil litigation should be initiated, he or she shall submit to the Commission a written memorandum, which shall be first reviewed by the General Counsel, or an attorney from the Legal Division, summarizing the facts and the applicable law of the case and recommending the initiation of a lawsuit. The memorandum shall include all exculpatory and mitigating information known to the staff.

(b) The Commission shall review the memorandum at an executive session. The General

Counsel, or an attorney from the Legal Division, and the Commission Assistant shall be in attendance. No other member of the staff may be present unless the Commission meets with a member of the staff for that person to answer questions. The Commission may not resume its deliberations until the person is no longer present. Any communication between the Commission and the person during the executive session shall be recorded. After review of the memorandum, the Commission may direct the Executive Director to do any of the following:

- (1) Initiate civil litigation.
  - (2) Decide whether probable cause proceedings should be commenced pursuant to 2 Cal. Code of Regulations Section 18361.4.
  - (3) Return the matter to the staff for further investigation.
  - (4) Take no further action on the matter or take any other action it deems appropriate.
- (c) If the Commission decides to initiate civil litigation, the Commission may then permit other members of the staff to attend the executive session.
- (d) If the Executive Director deems it necessary, he or she may call a special meeting of the Commission to review a staff memorandum recommending the initiation of civil litigation.
- (e) It is the intent of the Commission in adopting this section to preserve for the members of the Commission the authority to decide whether alleged violations should be adjudicated in administrative hearings or in civil litigation, while at the same time avoiding the possibility that discussions with members of the staff might cause members of the Commission to prejudge a case that might be heard by the Commission under Government Code Section 83116.

**Exhibit A-4**

1 GALENA WEST  
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2 CHRISTOPHER BURTON  
Senior Commission Counsel  
3 **FAIR POLITICAL PRACTICES COMMISSION**  
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4 Sacramento, CA 95811  
Telephone: (916) 322-5660

5 Attorneys for Complainant

7 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

8 STATE OF CALIFORNIA

9  
10 In the Matter of ) FPPC No. 17/378  
11 )  
12 WYMAN FOR ATTORNEY GENERAL ) EX PARTE REQUEST FOR A FINDING OF  
2014, PHILLIP D. WYMAN, AND JAMES ) PROBABLE CAUSE AND AN ORDER THAT  
M. O'HEARN, ) AN ACCUSATION BE PREPARED AND  
13 ) SERVED  
14 Respondents. ) Gov. Code § 83115.5  
)

15 **TO THE HEARING OFFICER OF THE FAIR POLITICAL PRACTICES COMMISSION:**

16 Pursuant to Section 83115.5 of the Political Reform Act (the "Act")<sup>1</sup> and Regulation 18361.4,  
17 Respondents Wyman for Attorney General 2014 (the "Committee"), Phillip D. Wyman ("Wyman"), and  
18 James M. O'Hearn ("O'Hearn") were served with a copy of a report in support of a finding of probable  
19 cause (the "Report") in the above-entitled matter.<sup>2</sup> The Report, attached as "Exhibit A," was part of a  
20 packet of materials, including a cover letter and a memorandum describing probable cause proceedings,  
21 which was sent to the Committee, Wyman, and O'Hearn on April 4, 2019, by certified mail, with a  
22 return receipt requested, and received by the Committee and Wyman on April 8, 2019, and by O'Hearn  
23 on April 20, 2019. Copies of pertinent certified mail receipts and postal tracking information are  
24 attached as "Exhibit B."

25  
26 <sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are  
27 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.

28 <sup>2</sup> Gov. Code § 83115.5; Cal. Code Reg., tit. 2, § 18361.4.

1 In the cover letter dated April 4, 2019, the Committee, Wyman, and O’Hearn were advised that  
2 they could respond in writing to the Report and orally present the case to the Hearing Officer at a  
3 probable cause conference to be held in Sacramento. The Committee, Wyman, and O’Hearn were  
4 further advised that in order to have a probable cause conference they needed to make a written request  
5 for one on or before 21 days of the date they received the Report. Additionally, the Committee, Wyman,  
6 and O’Hearn were advised that if they did not request a probable cause conference, such a conference  
7 would not be held and probable cause would be determined based solely on the Report and any written  
8 response that they submitted within 21 days of the date they were served with the Report. To date,  
9 neither the Committee, Wyman, nor O’Hearn have submitted a written response or requested a probable  
10 cause conference.

11 WHEREFORE, based on the attached Report, the Enforcement Division requests a finding by  
12 the Hearing Officer that probable cause exists to believe that the Committee, Wyman, and O’Hearn  
13 committed violations of the Act, stated as follows:

14 Count 1: The Committee, Wyman, and O’Hearn failed to maintain adequate source documentation for  
15 contributions amounting to \$29,863 and expenditures amounting to \$1,207.49, in violation of  
Section 84104 and Regulation 18401.

16 Count 2: The Committee, Wyman, and O’Hearn failed to pay \$19,320.08 in expenditures from the  
17 designated campaign bank account, in violation of Section 85201, subdivisions (d) and (e).

18 Count 3: The Committee, Wyman, and O’Hearn accepted a cash contribution of \$100 or more, in  
19 violation of Section 84300, subdivision (a).

20 Count 4: The Committee, Wyman, and O’Hearn failed to timely report \$7,000 in subvendor payments  
21 for the reporting period of May 18, 2014 to June 30, 2014, in violation of Sections 84303 and  
84211, subdivision (k)(6).

22 Count 5: The Committee, Wyman, and O’Hearn failed to timely file the Committee’s semiannual  
23 campaign statement for the reporting period of January 1, 2018 to June 30, 2018, in violation  
of Section 84200, subdivision (a).

24 Count 6: The Committee, Wyman, and O’Hearn failed to timely file the Committee’s semiannual  
25 campaign statement for the reporting period of July 1, 2018 to December 31, 2018, in violation  
of Section 84200, subdivision (a).

26 Count 7: The Committee, Wyman, and O’Hearn failed to timely file a 24-hour contribution report for  
27 late contributions totaling \$20,000 received on April 25, 2014, in violation of Section 84203.

1 Count 8: The Committee, Wyman, and O'Hearn failed to timely file a 24-hour contribution report for a  
2 late contributions in the amount of \$1,000 received on May 20, 2014, in violation of Section  
3 84203.

4 Additionally, after finding probable cause exists, the Enforcement Division requests an order by  
5 the Hearing Officer that an accusation be prepared against the Committee, Wyman, and O'Hearn and  
6 served upon them.<sup>3</sup>

7 A copy of this Request was mailed via U.S. Mail to the Committee, Wyman, and O'Hearn on  
8 August 19, 2019, at their last known addresses, as follows:

9 Phillip D. Wyman  
10 [REDACTED]

11 James M. O'Hearn  
12 [REDACTED]

13 Dated: August 19, 2019

14 Respectfully Submitted,

15 **FAIR POLITICAL PRACTICES COMMISSION**

16 Galena West  
17 Chief of Enforcement

18 

19 By: Christopher Burton  
20 Senior Commission Counsel  
21 Enforcement Division

22  
23  
24  
25  
26  
27 <sup>3</sup> Gov. Code § 11503.

# **Exhibit A**



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

8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**  
9 **STATE OF CALIFORNIA**  
10

11 In the Matter of ) FPPC No. 17/378  
12 )  
13 ) **REPORT IN SUPPORT OF A FINDING OF**  
14 ) **PROBABLE CAUSE**  
15 )  
16 )  
17 )  
18 )  
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27 )  
28 )

WYMAN FOR ATTORNEY GENERAL )  
2014, PHILLIP D. WYMAN, AND )  
JAMES M. O’HEARN, )  
Respondents. )  
Conference Date: TBA  
Conference Time: TBA  
Conference Location: Commission Offices  
1102 Q Street, Suite 3000  
Sacramento, CA 95811

**INTRODUCTION**

Respondent Phillip D. Wyman (“Wyman”) was a candidate for California Attorney General in the June 3, 2014 Primary Election. Wyman for Attorney General 2014 (the “Committee”) is the controlled committee of Wyman. James M. O’Hearn (“O’Hearn”) is the treasurer for the Committee.

The Committee was the subject of a Franchise Tax Board audit, which revealed that Respondents committed numerous violations of the Political Reform Act (the “Act”),<sup>1</sup> including a failure to meet the recordkeeping requirements of the Act, violations of the Act’s campaign bank

<sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 account provisions, improper acceptance of cash contributions, a failure to timely report information  
2 regarding payments made to subvendors, and a failure to timely file required 24-hour contribution  
3 reports. The Committee also failed to timely file two semiannual campaign statements.

#### 4 **SUMMARY OF THE LAW**

5 The Act and its regulations are amended from time to time. The discussion below regarding  
6 jurisdiction, the standard for finding probable cause, and the contents of the probable cause report  
7 includes references to current law. Unless otherwise noted, all other legal references and discussions of  
8 law pertain to the Act’s provisions as they existed at the time of the violations in this case.

#### 9 Jurisdiction

10 The Fair Political Practices Commission (the “Commission”) has primary responsibility for the  
11 impartial, effective administration and implementation of the Act.<sup>2</sup> This includes enforcement through  
12 administrative prosecution.<sup>3</sup> However, before the Commission’s Enforcement Division may commence  
13 administrative prosecution by filing/serving an Accusation, a hearing officer (either the General  
14 Counsel of the Commission or another attorney in the Commission’s Legal Division) must determine  
15 whether there is probable cause to believe that one or more violations of the Act occurred.<sup>4</sup> Any  
16 finding of probable cause is required by law to be announced publicly, which includes the posting of a  
17 summary of the allegations on the Commission’s website.<sup>5</sup> After a finding of probable cause, the  
18 Commission may then hold a hearing to determine what violations have occurred—and levy an  
19 administrative penalty of up to \$5,000 for each violation.<sup>6</sup>

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23 ///

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24 <sup>2</sup> Section 83111.

25 <sup>3</sup> Section 83116.

26 <sup>4</sup> Sections 83115.5 and 83116; Regulations 18361, subd. (b), and 18361.4.

27 <sup>5</sup> Regulation 18361.4, subd. (e).

28 <sup>6</sup> Section 83116; Regulation 18361.4, subd. (e).

1 Standard for Finding Probable Cause

2 For the hearing officer to make a finding of probable cause, it is only necessary that he or she be  
3 presented with sufficient evidence to lead a person of ordinary caution and prudence to believe, or  
4 entertain a strong suspicion, that a proposed respondent committed or caused a violation.<sup>7</sup>

5 Contents of the Probable Cause Report

6 The probable cause report is required to contain a summary of the law and evidence gathered in  
7 connection with the investigation, including any exculpatory and mitigating information of which the  
8 staff has knowledge and any other relevant material and arguments. The evidence recited in the  
9 probable cause report may include hearsay.<sup>8</sup>

10 Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

11 When enacting the Act, the people of California found and declared that previous laws  
12 regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>9</sup> For  
13 this reason, the Act is to be construed liberally to accomplish its purposes.<sup>10</sup>

14 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in  
15 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
16 practices are inhibited.<sup>11</sup> Along these lines, the Act includes a comprehensive campaign reporting  
17 system.<sup>12</sup> Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act  
18 will be “vigorously enforced.”<sup>13</sup>

19 Recordkeeping Requirements

20 Candidates and treasurers have a duty to maintain detailed accounts, records, bills, and receipts  
21 necessary to prepare campaign statements and establish campaign statements were properly filed.<sup>14</sup>

22  
23 <sup>7</sup> Section 83115.5; Regulation 18361.4, subd. (e).

24 <sup>8</sup> Regulation 18361.4, subd. (a).

25 <sup>9</sup> Section 81001, subd. (h).

26 <sup>10</sup> Section 81003.

27 <sup>11</sup> Section 81002, subd. (a).

28 <sup>12</sup> Sections 84200, *et seq.*

<sup>13</sup> Section 81002, subd. (f).

<sup>14</sup> Section 84104.

1 This duty includes maintenance of detailed information and original source documentation for a period  
2 of four years following the date the campaign statement to which they relate is filed.<sup>15</sup> Examples of  
3 original source documentation that must be maintained include copies of contributor checks, deposit  
4 slips, and contributor cards for contributions of \$25 or more.<sup>16</sup>

#### 5 One Bank Account Rule

6 To ensure full disclosure of campaign activity and to guard against improper use of campaign  
7 funds, a candidate must establish a single, designated campaign bank account upon filing a statement of  
8 intention to be a candidate.<sup>17</sup> All campaign contributions and loans must be deposited into the  
9 campaign account.<sup>18</sup> Personal funds of the candidate that will be used for the campaign must be  
10 deposited in the campaign account prior to expenditure.<sup>19</sup> All campaign expenditures must be made  
11 from the campaign account.<sup>20</sup>

#### 12 Prohibited Cash Contributions of \$100 or More

13 No contribution of \$100 or more may be made or received in cash.<sup>21</sup> All contributions of \$100  
14 or more must be made in the form of a written instrument containing the name of the contributor and  
15 the name of the payee, and drawn from the account of the contributor.<sup>22</sup>

#### 16 Duty to Report Subvendor Payments

17 A subvendor is a person or company that is hired by a committee's agent or independent  
18 contractor to provide a good or service for the committee. The Act requires committees to report  
19 payments of \$500 or more made on its behalf by an agent or independent contractor the same way it  
20 would if it were making the payment on its own.<sup>23</sup> Disclosure of the expenditures made by an agent or  
21 independent contractor are required to be made at the same time and in the same manner and detail as

22 <sup>15</sup> Regulation 18401.

23 <sup>16</sup> Regulation 18401, subd. (a)(2)(B).

24 <sup>17</sup> Section 85201, subd. (a).

25 <sup>18</sup> Section 85201, subd. (c).

26 <sup>19</sup> Section 85201, subd. (d).

27 <sup>20</sup> Section 85201, subd. (e).

28 <sup>21</sup> Section 84300, subd. (a).

<sup>22</sup> Section 84300, subd. (c).

<sup>23</sup> Section 84303.

1 required for the committee's direct expenditures.<sup>24</sup> Specifically, the following information must be  
2 provided: (1) the subvendor's full name; (2) his or her street address; (3) the amount of each  
3 expenditure; and (4) a brief description of the consideration for which each expenditure was made.<sup>25</sup>  
4 This information reported by the candidate or committee is commonly referred to as "subvendor  
5 information."

#### 6 Mandatory Filing of Campaign Statements

7 At the core of the Act's campaign reporting system is the requirement that committees file  
8 campaign statements and reports for certain reporting periods, by certain deadlines, and including  
9 certain information.<sup>26</sup>

10 The Act requires recipient committees to file semiannual campaign statements twice per year  
11 disclosing their campaign contributions and expenditures. A recipient committee must file a  
12 semiannual statement by January 31 for the period ending December 31 and by July 31 for the period  
13 ending June 30, or the next business day if the deadline falls on a weekend or holiday.<sup>27</sup>

#### 14 Duty to File 24-Hour Contribution Reports

15 Each candidate or committee that makes or receives a late contribution must file a report within  
16 24 hours of making or receiving the contribution.<sup>28</sup> A "late contribution" includes a contribution  
17 aggregating \$1,000 or more that is made to or received by a candidate, controlled committee, or  
18 primarily formed committee within 90 days before the date of the election at which the pertinent  
19 candidate or measure is to be voted on.<sup>29</sup>

20 ///

21 ///

22 ///

24 <sup>24</sup> Regulation 18431, subd. (c); Section 84211, subd. (k).

25 <sup>25</sup> Section 84211, subds. (k)(1)-(4) and (6).

26 <sup>26</sup> Sections 84200, *et seq.*

27 <sup>27</sup> Section 84200, subd. (a); Regulation 18116, subd. (a).

28 <sup>28</sup> Section 84203.

<sup>29</sup> Section 82036.

1                                    Joint and Several Liability of Candidate, Committee, and Treasurer

2            Every committee must have a treasurer.<sup>30</sup> It is the duty of a committee treasurer to ensure that  
3 the committee complies with the campaign reporting provisions of the Act.<sup>31</sup> A treasurer may be held  
4 jointly and severally liable, along with the candidate and the committee, for violations committed by  
5 the committee.<sup>32</sup>

6                                    **SUMMARY OF THE EVIDENCE**

7            The Committee qualified on March 3, 2014 and remains active. During the audit period of  
8 January 1, 2014 through June 30, 2014, the Committee received \$65,812.96 in contributions and made  
9 \$64,049.60 in expenditures. Wyman was unsuccessful in the June 3, 2014 Primary Election, receiving  
10 approximately 11.7 percent of the vote.

11            The Committee failed to maintain adequate records in conjunction with Wyman's campaign. In  
12 particular, the Committee failed to produce proper source documentation for a total of \$29,863 in  
13 contributions received during the reporting periods of March 18, 2014 to May 17, 2014 and May 18,  
14 2014 to June 30, 2014. Of this amount, \$5,250 was reported as loans from Wyman, and \$24,613 was  
15 reported as being received from nine other contributors. The Committee also failed to maintain  
16 sufficient records for a total of \$1,207.49 in expenditures made during the reporting period of May 18,  
17 2014 to June 30, 2014, including payments for office expenses and advertisements.

18            The Committee also violated the one bank account rule. The Committee made three separate  
19 payments of \$5,000 to Landslide Communications, on April 24 and 25, 2014, for Wyman's appearance  
20 on slate mailers; however, these payments were not run through the campaign bank account. Instead,  
21 the \$15,000 in expenditures were made from a Chase credit card held in the name of Wyman.

22            In addition, the Committee made certain payments to an American Express card in the name of  
23 Wyman, indicating that the corresponding expenditures made from that account were done outside of  
24 the campaign bank account. The subject American Express payments included a \$2,639.22 payment

25                                    <sup>30</sup> Section 84100.

26                                    <sup>31</sup> Sections 81004, 84100, 84104, and 84213; Regulation 18427.

27                                    <sup>32</sup> Sections 83116.5 and 91006.

1 made during the reporting period of May 18, 2014 to June 30, 2014 for “travel/meals/web exp;” and a  
2 \$1,680.86 payment made during the reporting period of July 1, 2014 to December 31, 2014 for  
3 “travel/lodg/meals/web exp.”

4 The Committee also improperly accepted a cash contribution of \$100 or more. On June 6,  
5 2014, the Committee received a \$500 contribution in the form of a postal money order from contributor  
6 Riverside Cement.

7 The Committee also failed to timely report certain subvendor information on a campaign  
8 statement. Specifically, the Committee failed to timely report any subvendor information for a total of  
9 \$7,000 in expenditures for radio advertisements made through the vendor Salem Media Reps during the  
10 reporting period of May 18, 2014 to June 30, 2014. The \$7,000 payment to Salem Media Reps was  
11 timely reported on the campaign statement.

12 The Committee failed to timely file certain semiannual campaign statements. The last  
13 campaign statement filed by the Committee was the semiannual campaign statement for the reporting  
14 period of July 1, 2017 to December 31, 2017, which reported a beginning cash balance of \$785.52, no  
15 financial activity during the period, and an ending cash balance of \$785.52. Since the Committee has  
16 not terminated, its filing obligations are continuing. Therefore, the Committee was required to file a  
17 semiannual campaign statement for the reporting period of January 1, 2018 to June 30, 2018, by July  
18 31, 2018, and a semiannual campaign statement for the reporting period July 1, 2018 to December 31,  
19 2018, by January 31, 2019; however, as of the date of this report, the Committee has failed to file these  
20 campaign statements.

21 Finally, the Committee failed to timely file 24-hour contribution reports for three late  
22 contributions received in advance of the election. In particular, the Committee failed to timely file a  
23 24-hour report for candidate loans of \$15,000 and \$5,000 received on April 25, 2014, and a \$1,000  
24 contribution received on May 20, 2014. The pertinent reports were filed on May 11, 2014 (13 days  
25 late) and May 22, 2014 (one day late), respectively.

26 ///

1 Count 8: Failure to Timely File 24-Hour Contribution Report

2 The Committee, Wyman, and O'Hearn failed to timely file a 24-hour contribution report for a  
3 late contributions in the amount of \$1,000 received on May 20, 2014, in violation of Section 84203.

4 **EXCULPATORY OR MITIGATING INFORMATION**

5 The Enforcement Division is not aware of any exculpatory or mitigating information.

6 **CONCLUSION**

7 Probable cause exists to believe that the Committee, Wyman, and O'Hearn violated the Act as  
8 detailed above. The Enforcement Division respectfully requests an order finding probable cause  
9 pursuant to Section 83115.5 and Regulation 18361.4.

10  
11 Dated: April 4, 2019

12 Respectfully Submitted,

13 **FAIR POLITICAL PRACTICES COMMISSION**

14 Galena West  
15 Enforcement Chief

16 

17 By: Christopher Burton  
18 Senior Commission Counsel  
19 Enforcement Division  
20  
21  
22  
23  
24  
25  
26  
27



## **Exhibit B**

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Phillip Wyman*



9590 9402 4740 8344 7626 81

2. Article Number (Transfer from service label)

7006 0810 0000 5127 6845

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Phillip Wyman*  Agent  
 Addressee

B. Received by (Printed Name)

*Phillip T. Wyman*

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery



FAQs > (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

### Track Another Package +

**Tracking Number:** 70060810000051276845

Remove X

Your item has been delivered to an agent at 2:28 pm on April 8, 2019 in TEHACHAPI, CA 93561.

## **Delivered**

April 8, 2019 at 2:28 pm  
Delivered, To Agent  
TEHACHAPI, CA 93561

Feedback



### Tracking History

**April 8, 2019, 2:28 pm**

Delivered, To Agent  
TEHACHAPI, CA 93561

Your item has been delivered to an agent at 2:28 pm on April 8, 2019 in TEHACHAPI, CA 93561.

**April 6, 2019, 2:10 pm**

Notice Left (No Authorized Recipient Available)  
TEHACHAPI, CA 93561

**April 6, 2019**

In Transit to Next Facility

**April 5, 2019, 6:59 pm**

Departed USPS Regional Facility  
BAKERSFIELD CA DISTRIBUTION CENTER

**April 5, 2019, 11:45 am**

Arrived at USPS Regional Facility  
BAKERSFIELD CA DISTRIBUTION CENTER

---

**April 4, 2019, 9:14 pm**

Arrived at USPS Regional Facility  
SACRAMENTO CA DISTRIBUTION CENTER

---

---

**Product Information**



---

**See Less** ^

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

**FAQs (<https://www.usps.com/faqs/uspstracking-faqs.htm>)**

Feedback

**The easiest tracking number is the one you don't have to know.**

With Informed Delivery<sup>®</sup>, you never have to type in another tracking number. Sign up to:

- See images\* of incoming mail.
- Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions<sup>™</sup> for your mail carrier.

## Sign Up

**([https://reg.usps.com/entreg/RegistrationAction\\_input?](https://reg.usps.com/entreg/RegistrationAction_input?app=UpsTools&appURL=https%3A%2F%2Ftools.usps.com%2Fgc)**

\*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

Feedback

7006 0810 0000 5127 6890

U.S. Postal Service™  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)®

**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
Here

Sent To *James O'Hearn*

Street, Apt. No.,  
or PO Box No. [REDACTED]

City, State, ZIP+4 [REDACTED]

## Track Another Package +

**Tracking Number:** 70060810000051276890

Remove X

Your item was delivered to an individual at the address at 2:24 pm on April 20, 2019 in BAKERSFIELD, CA 93312.

### **Delivered**

April 20, 2019 at 2:24 pm  
Delivered, Left with Individual  
BAKERSFIELD, CA 93312

**Get Updates** v

---

#### **Text & Email Updates**



Feedback

---

#### **Tracking History**



---

##### **April 20, 2019, 2:24 pm**

Delivered, Left with Individual  
BAKERSFIELD, CA 93312

Your item was delivered to an individual at the address at 2:24 pm on April 20, 2019 in BAKERSFIELD, CA 93312.

---

##### **April 20, 2019**

In Transit to Next Facility

---

##### **April 19, 2019, 11:52 pm**

Departed USPS Regional Facility  
BAKERSFIELD CA DISTRIBUTION CENTER

---

##### **April 19, 2019, 9:58 pm**

Arrived at USPS Regional Facility  
BAKERSFIELD CA DISTRIBUTION CENTER

---

##### **April 18, 2019, 10:28 pm**

Arrived at USPS Regional Facility  
SACRAMENTO CA DISTRIBUTION CENTER

---

**Product Information**

---

**See Less** ^

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

**FAQs** (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

Feedback

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- See images\* of incoming mail.
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- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions™ for your mail carrier.



## Sign Up

[https://reg.usps.com/entreg/RegistrationAction\\_input?](https://reg.usps.com/entreg/RegistrationAction_input?app=UspsTools&appURL=https%3A%2F%2Ftools.usps.com%2Fgo%2FTrack)

\*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

Feedback

**Exhibit A-5**

1 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

2 STATE OF CALIFORNIA

3  
4 In the Matter of ) FPPC No. 17/378  
5 )  
6 WYMAN FOR ATTORNEY GENERAL ) FINDING OF PROBABLE CAUSE AND  
7 2014, PHILLIP D. WYMAN, AND JAMES ) ORDER TO PREPARE AND SERVE AN  
8 M. O'HEARN, ) ACCUSATION  
9 Respondents. )  
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28 )

9 By means of an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation  
10 be Prepared and Served (the "Ex Parte Request"), dated August 19, 2019, the Enforcement Division  
11 submitted the above-entitled matter to the Hearing Officer for a determination of Probable Cause. As set  
12 forth in the Ex Parte Request, the Enforcement Division served a Report in Support of a Finding of  
13 Probable Cause (the "PC Report") concerning this matter on Wyman for Attorney General 2014 (the  
14 "Committee"), Phillip D. Wyman ("Wyman"), and James M. O'Hearn ("O'Hearn") on April 8, 2019 and  
15 April 20, 2019, by certified mail, return receipt requested. Accompanying the PC Report was a packet of  
16 materials that informed the Committee, Wyman, and O'Hearn of their right to file a written response to  
17 the PC Report and to request a probable cause conference within 21 days following service of the PC  
18 Report. During the 21 days that followed service of the PC Report, neither the Committee, Wyman, nor  
19 O'Hearn filed a response to the PC Report or requested a probable cause conference. Pursuant to  
20 California Code of Regulations Title 2, Section 18361.4, determination of probable cause may be made  
21 solely on papers submitted when the respondents do not request a probable cause conference.<sup>1</sup>

22 In making a probable cause determination, it is the duty of the Hearing Officer of the Fair Political  
23 Practices Commission to determine whether probable cause exists to believe that a respondent violated  
24 the Political Reform Act as alleged by the Enforcement Division in the PC Report served on the  
25 respondents.

26  
27 <sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. The regulations of the  
28 Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of  
Regulations.

1 Probable cause to believe a violation has occurred can be found to exist when “the evidence is  
2 sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that  
3 the proposed respondent(s) committed or caused a violation.”<sup>2</sup>

4 The PC Report served on the Committee, Wyman, and O’Hearn and the subsequent Ex Parte  
5 Request in this matter allege violations of the Political Reform Act were committed, as follows:

6 Count 1: The Committee, Wyman, and O’Hearn failed to maintain adequate source documentation for  
7 contributions amounting to \$29,863 and expenditures amounting to \$1,207.49, in violation of  
8 Section 84104 and Regulation 18401.

9 Count 2: The Committee, Wyman, and O’Hearn failed to pay \$19,320.08 in expenditures from the  
10 designated campaign bank account, in violation of Section 85201, subdivisions (d) and (e).

11 Count 3: The Committee, Wyman, and O’Hearn accepted a cash contribution of \$100 or more, in  
12 violation of Section 84300, subdivision (a).

13 Count 4: The Committee, Wyman, and O’Hearn failed to timely report \$7,000 in subvendor payments  
14 for the reporting period of May 18, 2014 to June 30, 2014, in violation of Sections 84303 and  
15 84211, subdivision (k)(6).

16 Count 5: The Committee, Wyman, and O’Hearn failed to timely file the Committee’s semiannual  
17 campaign statement for the reporting period of January 1, 2018 to June 30, 2018, in violation  
18 of Section 84200, subdivision (a).

19 Count 6: The Committee, Wyman, and O’Hearn failed to timely file the Committee’s semiannual  
20 campaign statement for the reporting period of July 1, 2018 to December 31, 2018, in violation  
21 of Section 84200, subdivision (a).

22 Count 7: The Committee, Wyman, and O’Hearn failed to timely file a 24-hour contribution report for  
23 late contributions totaling \$20,000 received on April 25, 2014, in violation of Section 84203.

24 Count 8: The Committee, Wyman, and O’Hearn failed to timely file a 24-hour contribution report for a  
25 late contributions in the amount of \$1,000 received on May 20, 2014, in violation of Section  
26 84203.

27 Based on the Ex Parte Request given to me, I find that notice has been given to the Committee,  
28 Wyman, and O’Hearn.<sup>3</sup> I further find, based on the PC Report and the Ex Parte Request, that there is  
probable cause to believe the Committee, Wyman, and O’Hearn violated the Political Reform Act as  
alleged in Counts 1 through 8, as identified above.

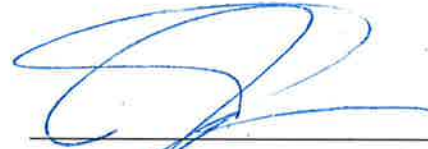
<sup>2</sup> Cal. Code Reg., tit. 2, § 18361.4, subd. (e).

<sup>3</sup> Government Code § 83115.5; Cal. Code Reg., tit. 2, §18361.4, subd. (b).

1 I therefore direct that the Enforcement Division issue an accusation against the Committee,  
2 Wyman, and O'Hearn in accordance with this finding.

3 IT IS SO ORDERED.

4  
5  
6 Dated: 9/10/19



7 Hearing Officer  
8 Fair Political Practices Commission

**FPPC No. 17/378, In the matter of Wyman for Attorney General 2014, Phillip D. Wyman, and James M. O'Hearn**

**PROOF OF SERVICE**

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811. On the date below, I served the following document:

**FINDING OF PROBABLE CAUSE AND ORDER TO PREPARE AND SERVE AN ACCUSATION**

**MANNER OF SERVICE**

**(U.S. Mail)** By causing a true copy thereof to be served on the parties in this action through the U.S. Mail and addressed as listed below. I am familiar with the procedure of the Fair Political Practices Commission for collection and processing of correspondence for mailing with the United States Postal Service, and the fact that the correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

**SERVICE LIST**

Phillip D. Wyman  
[REDACTED]

James M. O'Hearn  
[REDACTED]

**(By Personal Service) On Tuesday, September 10, 2019, at approximately 12:00 p.m., I personally served:**

Christopher Burton, Senior Commission Counsel, at 1102 Q Street, Suite 3000, Sacramento, CA 95811.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this document is executed at Sacramento, California, on September 10, 2019.



Sasha Linker

**Exhibit A-6**

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  
6  
7

8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

9 STATE OF CALIFORNIA

10 In the Matter of ) FPPC No. 17/378  
11 )  
12 )  
13 WYMAN FOR ATTORNEY GENERAL ) **ACCUSATION**  
2014, PHILLIP D. WYMAN, AND )  
14 JAMES M. O'HEARN, )  
15 ) (Gov. Code § 11503)  
16 Respondents. )

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 Accusation in its official capacity and in the public interest.

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

27 ///

28 ///





1 11. This duty includes maintenance of detailed information and original source  
2 documentation for a period of four years following the date the campaign statement to which they relate  
3 is filed.<sup>6</sup>

4 12. Examples of original source documentation that must be maintained include copies of  
5 contributor checks, deposit slips, and contributor cards for contributions of \$25 or more.<sup>7</sup>

6 **B. One Bank Account Rule**

7 13. To ensure full disclosure of campaign activity and to guard against improper use of  
8 campaign funds, a candidate must establish a single, designated campaign bank account upon filing a  
9 statement of intention to be a candidate.<sup>8</sup>

10 14. All campaign contributions and loans must be deposited into the campaign account.<sup>9</sup>  
11 Personal funds of the candidate that will be used for the campaign must be deposited in the campaign  
12 account prior to expenditure.<sup>10</sup>

13 15. All campaign expenditures must be made from the campaign account.<sup>11</sup>

14 **C. Prohibited Cash Contributions of \$100 or More**

15 16. No contribution of \$100 or more may be made or received in cash.<sup>12</sup> All contributions of  
16 \$100 or more must be made in the form of a written instrument containing the name of the contributor  
17 and the name of the payee, and drawn from the account of the contributor.<sup>13</sup>

18 **D. Duty to Report Subvendor Payments**

19 17. A subvendor is a person or company that is hired by a committee's agent or independent  
20 contractor to provide a good or service for the committee.

21 18. The Act requires committees to report payments of \$500 or more made on its behalf by  
22 an agent or independent contractor the same way it would if it were making the payment on its own.<sup>14</sup>  
23 Disclosure of the expenditures made by an agent or independent contractor are required to be made at

24 <sup>6</sup> Regulation 18401.  
25 <sup>7</sup> Regulation 18401, subd. (a)(2)(B).  
26 <sup>8</sup> Section 85201, subd. (a).  
27 <sup>9</sup> Section 85201, subd. (c).  
28 <sup>10</sup> Section 85201, subd. (d).  
<sup>11</sup> Section 85201, subd. (e).  
<sup>12</sup> Section 84300, subd. (a).  
<sup>13</sup> Section 84300, subd. (c).  
<sup>14</sup> Section 84303.

1 the same time and in the same manner and detail as required for the committee's direct expenditures.<sup>15</sup>  
2 Specifically, the following information must be provided: (1) the subvendor's full name; (2) his or her  
3 street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for  
4 which each expenditure was made.<sup>16</sup> This information reported by the candidate or committee is  
5 commonly referred to as "subvendor information."

6 **E. Definition of Committee**

7 19. A "candidate" includes, in relevant part, an individual who is listed on the ballot for  
8 election to any elective office.<sup>17</sup> In 2014, a "committee" included any person or combination of persons  
9 who received contributions totaling \$1,000 or more in a calendar year,<sup>18</sup> commonly known as a  
10 "recipient committee."

11 **F. Mandatory Filing of Campaign Statements**

12 20. At the core of the Act's campaign reporting system is the requirement that committees  
13 file campaign statements and reports for certain reporting periods, by certain deadlines, and including  
14 certain information.<sup>19</sup>

15 21. The Act requires recipient committees to file semiannual campaign statements twice per  
16 year disclosing their campaign contributions and expenditures. A recipient committee must file a  
17 semiannual statement by January 31 for the period ending December 31 and by July 31 for the period  
18 ending June 30, or the next business day if the deadline falls on a weekend or holiday.<sup>20</sup>

19 **G. Duty to File 24-Hour Contribution Reports**

20 22. Each candidate or committee that makes or receives a late contribution must file a report  
21 within 24 hours of making or receiving the contribution.<sup>21</sup>

22 ///

23 ///

24 ///

---

25 <sup>15</sup> Regulation 18431, subd. (c); Section 84211, subd. (k).

26 <sup>16</sup> Section 84211, subds. (k)(1)-(4) and (6).

27 <sup>17</sup> Section 82007.

28 <sup>18</sup> Former Section 82013, subd. (a).

<sup>19</sup> Sections 84200, *et seq.*

<sup>20</sup> Section 84200, subd. (a); Regulation 18116, subd. (a).

<sup>21</sup> Section 84203.

1           23.     A “late contribution” includes a contribution aggregating \$1,000 or more that is made to  
2 or received by a candidate, controlled committee, or primarily formed committee within 90 days before  
3 the date of the election at which the pertinent candidate or measure is to be voted on.<sup>22</sup>

4 **H.     Factors to be Considered by the Fair Political Practices Commission**

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

14 **GENERAL FACTS**

15           25.     Complainant incorporates paragraphs 6 through 8 of this Accusation, as though  
16 completely set forth herein.

17           26.     The Committee qualified on March 3, 2014 and remains active.

18           27.     The Committee was the subject of a Franchise Tax Board audit. During the audit period  
19 of January 1, 2014 through June 30, 2014, the Committee received \$65,812.96 in contributions and  
20 made \$64,049.60 in expenditures.

21           28.     Wyman was unsuccessful in the June 3, 2014 Primary Election, receiving approximately  
22 11.7 percent of the vote.

23           29.     The Committee failed to maintain adequate records in conjunction with Wyman’s  
24 campaign. In particular, the Committee failed to produce proper source documentation for a total of  
25 \$29,863 in contributions received during the reporting periods of March 18, 2014 to May 17, 2014 and  
26

27  
28 

---

<sup>22</sup> Section 82036.

<sup>23</sup> Regulation 18361.5, subd. (d).

1 May 18, 2014 to June 30, 2014. Of this amount, \$5,250 was reported as loans from Wyman, and  
2 \$24,613 was reported as being received from nine other contributors.

3 30. The Committee also failed to maintain sufficient records for a total of \$1,207.49 in  
4 expenditures made during the reporting period of May 18, 2014 to June 30, 2014, including payments  
5 for office expenses and advertisements.

6 31. The Committee also violated the one bank account rule. The Committee made three  
7 separate payments of \$5,000 to Landslide Communications, on April 24 and 25, 2014, for Wyman's  
8 appearance on slate mailers; however, these payments were not run through the campaign bank  
9 account. Instead, the \$15,000 in expenditures were made from a Chase credit card held in the name of  
10 Wyman.

11 32. In addition, the Committee made certain payments to an American Express card in the  
12 name of Wyman, indicating that the corresponding expenditures made from that account were done  
13 outside of the campaign bank account. The subject American Express payments included a \$2,639.22  
14 payment made during the reporting period of May 18, 2014 to June 30, 2014 for "travel/meals/web  
15 exp;" and a \$1,680.86 payment made during the reporting period of July 1, 2014 to December 31, 2014  
16 for "travel/lodg/meals/web exp."

17 33. The Committee also improperly accepted a cash contribution of \$100 or more. On June  
18 6, 2014, the Committee received a \$500 contribution in the form of a postal money order from  
19 contributor Riverside Cement.

20 34. The Committee also failed to timely report certain subvendor information on a campaign  
21 statement. Specifically, the Committee failed to timely report any subvendor information for a total of  
22 \$7,000 in expenditures for radio advertisements made through the vendor Salem Media Reps during the  
23 reporting period of May 18, 2014 to June 30, 2014. The \$7,000 payment to Salem Media Reps was  
24 timely reported on the campaign statement.

25 35. The Committee failed to timely file certain semiannual campaign statements. The last  
26 campaign statement filed by the Committee was the semiannual campaign statement for the reporting  
27 period of July 1, 2017 to December 31, 2017, which reported a beginning cash balance of \$785.52, no  
28 financial activity during the period, and an ending cash balance of \$785.52.



1 **VIOLATIONS**

2 42. The Committee, Wyman, and O’Hearn committed eight violations of the Act as follows:

3 **Count 1**

4 **Failure to Maintain Campaign Records**

5 43. Complainant incorporates paragraphs 1 through 42 of this Accusation, as though  
6 completely set forth herein.

7 44. The Committee, Wyman, and O’Hearn had a duty to maintain certain records for all  
8 contributions and other receipts received and expenditures made.

9 45. The Committee, Wyman, and O’Hearn failed to maintain adequate records for  
10 contributions amounting to \$29,863 and expenditures amounting to \$1,207.49.

11 46. By failing to maintain adequate source documentation for certain contributions and  
12 expenditures, the Committee, Wyman, and O’Hearn violated Section 84104 and Regulation 18401.

13 **Count 2**

14 **Failure to Pay Expenditures from Campaign Bank Account**

15 47. Complainant incorporates paragraphs 1 through 46 of this Accusation, as though  
16 completely set forth herein.

17 48. The Committee, Wyman, and O’Hearn were required to make all campaign expenditures  
18 out of the designated campaign bank account.

19 49. The Committee, Wyman, and O’Hearn failed to pay \$19,320.08 in expenditures from  
20 the designated campaign bank account.

21 50. By failing to pay expenditures from the designated campaign bank account, the  
22 Committee, Wyman, and O’Hearn violated Section 85201, subdivisions (d) and (e).

23 **Count 3**

24 **Unlawful Cash Contribution of \$100 or More**

25 51. Complainant incorporates paragraphs 1 through 50 of this Accusation, as though  
26 completely set forth herein.

27 52. The Committee, Wyman, and O’Hearn were not permitted to receive cash contributions  
28 of \$100 or more.

1 53. The Committee, Wyman, and O'Hearn accepted a cash contribution of \$100 or more.

2 54. By accepting a cash contribution of \$100 or more, the Committee, Wyman, and O'Hearn  
3 violated Section 84300, subdivision (a).

4 **Count 4**

5 **Failure to Timely Report Subvendor Payments**

6 55. Complainant incorporates paragraphs 1 through 54 of this Accusation, as though  
7 completely set forth here.

8 56. The Committee, Wyman, and O'Hearn had a duty to report subvendor payments on the  
9 Committee's campaign statements.

10 57. The Committee, Wyman, and O'Hearn failed to timely report \$7,000 in subvendor  
11 payments on the Committee's semiannual campaign statement for the reporting period of May 18, 2014  
12 to June 30, 2014.

13 58. By failing to timely report subvendor payments, the Committee, Wyman, and O'Hearn  
14 violated Sections 84303 and 84211, subdivision (k)(6).

15 **Count 5**

16 **Failure to Timely File Semiannual Campaign Statement**

17 59. Complainant incorporates paragraphs 1 through 58 of this Accusation, as though  
18 completely set forth here.

19 60. The Committee, Wyman, and O'Hearn had a duty to file a semiannual campaign  
20 statement for the period of January 1, 2018 to June 30, 2018, by the deadline of July 31, 2018.

21 61. The Committee, Wyman, and O'Hearn failed to file the semiannual campaign statement  
22 for the period of January 1, 2018 to June 30, 2018, by the deadline.

23 62. By failing to file the semiannual campaign statement by July 31, 2018, the Committee,  
24 Wyman, and O'Hearn violated Section 84200, subdivision (a).

25 **Count 6**

26 **Failure to Timely File Semiannual Campaign Statement**

27 63. Complainant incorporates paragraphs 1 through 62 of this Accusation, as though  
28 completely set forth here.







- 1           6.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
2                     order the Committee, Wyman, and O’Hearn to pay a monetary penalty of up to \$5,000 for  
3                     the violation of the Political Reform Act alleged in **Count 5**;
- 4           7.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
5                     order the Committee, Wyman, and O’Hearn to pay a monetary penalty of up to \$5,000 for  
6                     the violation of the Political Reform Act alleged in **Count 6**;
- 7           8.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
8                     order the Committee, Wyman, and O’Hearn to pay a monetary penalty of up to \$5,000 for  
9                     the violation of the Political Reform Act alleged in **Count 7**;
- 10          9.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
11                     order the Committee, Wyman, and O’Hearn to pay a monetary penalty of up to \$5,000 for  
12                     the violation of the Political Reform Act alleged in **Count 8**;
- 13          10.    That the Fair Political Practices Commission, pursuant to Regulation 18361.5, subdivision  
14                     (d), consider the following factors in framing a proposed order following a finding of a  
15                     violation pursuant to Section 83116: (1) the seriousness of the violation; (2) the presence  
16                     or absence of any intention to conceal, deceive or mislead; (3) whether the violation was  
17                     deliberate, negligent or inadvertent; (4) whether the violator demonstrated good faith by  
18                     consulting the Commission staff or any other government agency in a manner not  
19                     constituting a complete defense under Section 83114, subdivision (b); (5) whether the  
20                     violation was isolated or part of a pattern and whether the violator has a prior record of  
21                     violations of the Act or similar laws; and (6) whether the violator, upon learning of a  
22                     reporting violation, voluntarily filed amendments to provide full disclosure.
- 23          11.    That the Fair Political Practices Commission grant such other and further relief as it  
24                     deems just and proper.

25  
26   Dated:

40c119



Galena West  
Chief of Enforcement  
Fair Political Practices Commission

**Exhibit A-7**

**PROOF OF SERVICE**

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of eighteen years, and not a party to the above entitled action. My business address is [REDACTED] this date, I served the following documents:

**ACCUSATION**

- 1. Statement to Respondent;
- 2. FPPC Case No. 171378 : Accusation;
- 3. Notice of Defense (Two Copies);
- 4. Selected Sections of the California Government Code, Administrative Procedure Act.

I served the above-listed documents as follows:

**Personal Service.** I personally delivered the above-listed documents as follows:

Person served: James O'Hearn

Address where served: [REDACTED]

Date of delivery: 12-18-19

93306

Time of delivery: 1:38 pm

**Mail.** I deposited the above-listed documents in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

Person served:

Address where served:

Date of delivery: \_\_\_\_\_

Time of delivery: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 12-20-19

[Signature]  
(SIGNATURE)  
Rem #560, process server

**Exhibit A-8**



## FAIR POLITICAL PRACTICES COMMISSION

1102 Q Street • Suite 3000 • Sacramento, CA 95811

### STATEMENT TO RESPONDENT

[Government Code Section 11505, subdivision (b)]

***Wyman for Attorney General 2014, Phillip D. Wyman, and James M. O'Hearn  
FPPC Case No. 17/378***

Enclosed is an Accusation, which was filed with the Fair Political Practices Commission (the "FPPC") and which is hereby served upon you, along with two copies of a Notice of Defense and Government Code Sections 11506 through 11508.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the FPPC within 15 days after the Accusation was served on you, the FPPC may proceed upon the Accusation without a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or mailing a notice of defense as provided by Section 11506 of the Government Code to the Commission Assistant at the FPPC.

You may, but need not, be represented by counsel at any or all stages of these proceedings.

If you desire a list of the names and addresses of witnesses against you, or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code that are in the possession, custody, or control of this agency, or if you wish to discuss the possibility of resolving this matter without a formal hearing, you may contact Christopher Burton, Senior Commission Counsel, Enforcement Division, at (916) 322-5021 or at [cburton@fppc.ca.gov](mailto:cburton@fppc.ca.gov).

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the FPPC or, if an administrative law judge has been assigned to the hearing, the Office of Administrative Hearings, within 10 working days after you discover the good cause. Failure to give notice within 10 days will deprive you of a postponement.

After a hearing, the FPPC will consider the following factors in determining whether to assess a penalty (Title 2, California Code of Regulations, Section 18361.5, subdivision (d).):

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



*Before the Fair Political Practices Commission*

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**State of California**

In the Matter of	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
	)	
Wyman for Attorney General 2014,	)	FPPC Case No. 17/378
Phillip D. Wyman, and James M.	)	
O'Hearn,	)	
	)	
	)	
Respondents.	)	
	)	

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Wyman for Attorney General 2014, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.



**GROUND FOR NOTICE OF DEFENSE**

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
  - a) I admit the Accusation in whole.
  - b) I admit the Accusation in part as indicated below:  
  

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- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip



*Before the Fair Political Practices Commission*

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**State of California**

In the Matter of	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
	)	
Wyman for Attorney General 2014,	)	FPPC Case No. 17/378
Phillip D. Wyman, and James M.	)	
O'Hearn,	)	
	)	
	)	
Respondents.	)	
	)	

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Wyman for Attorney General 2014, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

**GROUND FOR NOTICE OF DEFENSE**

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
  - a) I admit the Accusation in whole.
  - b) I admit the Accusation in part as indicated below:  
  

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- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip



*Before the Fair Political Practices Commission*

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**State of California**

In the Matter of	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
	)	
Wyman for Attorney General 2014,	)	FPPC Case No. 17/378
Phillip D. Wyman, and James M.	)	
O'Hearn,	)	
	)	
	)	
Respondents.	)	
	)	

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James M. O'Hearn, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

**GROUND FOR NOTICE OF DEFENSE**

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
  - a) I admit the Accusation in whole.
  - b) I admit the Accusation in part as indicated below:  
  

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- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip



*Before the Fair Political Practices Commission*

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**State of California**

In the Matter of	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
	)	
Wyman for Attorney General 2014,	)	FPPC Case No. 17/378
Phillip D. Wyman, and James M.	)	
O'Hearn,	)	
	)	
	)	
Respondents.	)	
	)	

---

James M. O'Hearn, a respondent named in the above entitled proceeding, hereby acknowledges receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

Pursuant to Government Code Section 11506, subdivision (a), you may file this *NOTICE OF DEFENSE* requesting a hearing on the grounds listed below. Failure to file this *NOTICE OF DEFENSE* shall constitute a waiver of your right to a hearing. If you waive your right to a hearing, you may file a statement of mitigation by separate letter that will be considered by the Commission in assessing any penalties for the violations alleged in the Accusation.

If you wish to file a *NOTICE OF DEFENSE*, please check **all** applicable grounds for the *NOTICE OF DEFENSE*, complete the remainder of the form, and mail to the Commission within fifteen (15) days of receipt of the Accusation.

**GROUND FOR NOTICE OF DEFENSE**

- 1) I request a hearing;
- 2) I object to the Accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- 3) I object to the form of the Accusation on the ground that it is so indefinite or uncertain that I cannot identify the transaction that is the subject of the Accusation or prepare my defense;
- 4) I admit the Accusation in whole or in part (check box "a" or "b");
  - a) I admit the Accusation in whole.
  - b) I admit the Accusation in part as indicated below:  
  

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- 5) I wish to present new matter by way of defense;
- 6) I object to the accusation upon the ground that, under the circumstances, compliance with the requirements of a regulation of the Fair Political Practices Commission would result in a material violation of another regulation enacted by another department affecting substantive rights.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip

## **California Government Code sections 11506 through 11508**

### **§ 11506. Filing of notice of defense or notice of participation; Contents; Right to hearing on the merits**

(a) Within 15 days after service of the accusation or District Statement of Reduction in Force the respondent may file with the agency a notice of defense, or, as applicable, notice of participation, in which the respondent may:

(1) Request a hearing.

(2) Object to the accusation or District Statement of Reduction in Force upon the ground that it does not state acts or omissions upon which the agency may proceed.

(3) Object to the form of the accusation or District Statement of Reduction in Force on the ground that it is so indefinite or uncertain that the respondent cannot identify the transaction or prepare a defense.

(4) Admit the accusation or District Statement of Reduction in Force in whole or in part.

(5) Present new matter by way of defense.

(6) Object to the accusation or District Statement of Reduction in Force upon the ground that, under the circumstances, compliance with the requirements of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights.

(b) Within the time specified the respondent may file one or more notices of defense, or, as applicable, notices of participation, upon any or all of these grounds but all of these notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense or notice of participation, and the notice shall be deemed a specific denial of all parts of the accusation or District Statement of Reduction in Force not expressly admitted. Failure to file a notice of defense or notice of participation shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation or District Statement of Reduction in Force shall be deemed waived.

(d) The notice of defense or notice of participation shall be in writing signed by or on behalf of the respondent and shall state the respondent's mailing address. It need not be verified or follow any particular form.



(e) As used in this section, "file," "files," "filed," or "filing" means "delivered or mailed" to the agency as provided in Section 11505.

**HISTORY:** Added Stats 1945 ch 867 § 1. Amended Stats 1963 ch 931 § 1; Stats 1982 ch 606 § 1; Stats 1986 ch 951 § 20; Stats 1995 ch 938 § 29 (SB 523), operative July 1, 1997; Stats 2013 ch 90 § 5 (SB 546), effective January 1, 2014.

### **§ 11507. Amended or supplemental accusation or District Statement of Reduction in Force; Objections**

At any time before the matter is submitted for decision, the agency may file, or permit the filing of, an amended or supplemental accusation or District Statement of Reduction in Force. All parties shall be notified of the filing. If the amended or supplemental accusation or District Statement of Reduction in Force presents new charges, the agency shall afford the respondent a reasonable opportunity to prepare his or her defense to the new charges, but he or she shall not be entitled to file a further pleading unless the agency in its discretion so orders. Any new charges shall be deemed controverted, and any objections to the amended or supplemental accusation or District Statement of Reduction in Force may be made orally and shall be noted in the record.

**HISTORY:** Added Stats 1945 ch 867 § 1. Amended Stats 2013 ch 90 § 6 (SB 546), effective January 1, 2014; Stats 2014 ch 71 § 69 (SB 1304), effective January 1, 2015.

#### **§ 11507.3. Consolidated proceedings; Separate hearings**

(a) When proceedings that involve a common question of law or fact are pending, the administrative law judge on the judge's own motion or on motion of a party may order a joint hearing of any or all the matters at issue in the proceedings. The administrative law judge may order all the proceedings consolidated and may make orders concerning the procedure that may tend to avoid unnecessary costs or delay.

(b) The administrative law judge on the judge's own motion or on motion of a party, in furtherance of convenience or to avoid prejudice or when separate hearings will be conducive to expedition and economy, may order a separate hearing of any issue, including an issue raised in the notice of defense or notice of participation, or of any number of issues.

**HISTORY:** Added Stats 1995 ch 938 § 30 (SB 523), operative July 1, 1997. Amended Stats 2013 ch 90 § 7 (SB 546), effective January 1, 2014.

///

### **§ 11507.5. Exclusivity of discovery provisions**

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

**HISTORY:** Added Stats 1968 ch 808 § 3.

### **§ 11507.6. Request for discovery**

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

**HISTORY:** Added Stats 1968 ch 808 § 4. Amended Stats 1985 ch 1328 § 5; Stats 1995 ch 938 § 31 (SB 523), operative July 1, 1997.

**§ 11507.7. Motion to compel discovery; Order**

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of *Section 915 of the Evidence Code* and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become

effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

**HISTORY:** Added Stats 1968 ch 808 § 5. Amended Stats 1971 ch 1303 § 8; Stats 1980 ch 548 § 2; Stats 1995 ch 938 § 32 (SB 523), operative July 1, 1997.

**§ 11508. Time and place of hearing**

(a) The agency shall consult the office, and subject to the availability of its staff, shall determine the time and place of the hearing. The hearing shall be held at a hearing facility maintained by the office in Sacramento, Oakland, Los Angeles, or San Diego and shall be held at the facility that is closest to the location where the transaction occurred or the respondent resides.

(b) Notwithstanding subdivision (a), the hearing may be held at either of the following places:

(1) A place selected by the agency that is closer to the location where the transaction occurred or the respondent resides.

(2) A place within the state selected by agreement of the parties.

(c) The respondent may move for, and the administrative law judge has discretion to grant or deny, a change in the place of the hearing. A motion for a change in the place of the hearing shall be made within 10 days after service of the notice of hearing on the respondent.

Unless good cause is identified in writing by the administrative law judge, hearings shall be held in a facility maintained by the office.

**HISTORY:** Added Stats 1945 ch 867 § 1. Amended Stats 1963 ch 710 § 1; Stats 1967 ch 17 § 39; Stats 1987 ch 50 § 1; Stats 1995 ch 938 § 33 (SB 523), operative July 1, 1997; Stats 2005 ch 674 § 22 (SB 231), effective January 1, 2006.

**PROOF OF SERVICE**

At the time of service, I was over 18 years of age and not a party to this action. My business address is: Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811. On October 07, 2019, I served the following document(s):

1. Statement to Respondent;
2. FPPC Case No. 17/378: Accusation;
3. Notice of Defense (Two copies per respondent);
4. Selected Sections of California Government Code, Administrative Procedure Act.

**By Personal Delivery.** I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

**By personal service.** At 12:15 a.m./p.m.:

I personally delivered the document(s) listed above to the person(s) at the address(es) as shown on the service list below.

By providing the document(s) listed above with instructions for registered process server to personally deliver the envelope(s) to the person(s) at the address(es) set forth on the service list below. **The signed proof of service by the registered process server will be attached as soon as it is available.**

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Sacramento County, California.

**SERVICE LIST**

**Personal Service**

Phillip D. Wyman  
[REDACTED]

James M. O'Hearn  
[REDACTED]

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 07, 2019.

  
\_\_\_\_\_  
Suzanna Gevorkyan

**Exhibit A-9**

**Statement of Organization  
Recipient Committee**

R-15 1364275  
C

Statement Type

Initial

Not yet qualified  or

Amendment

List I.D. number:

# \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date qualified as committee

Termination – See Part 5

List I.D. number:

# \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date qualified as committee  
(if applicable)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date of Termination

**RECEIVED AND FILED**

in the office of the Secretary of State  
of the State of California

FEB 26 2014

Hand Delivered, Sacramento

**CALIFORNIA  
FORM 410**

For Official Use Only

*[Handwritten initials]*

**1. Committee Information**

NAME OF COMMITTEE

WYMAN FOR ATTORNEY GENERAL 2014

STREET ADDRESS (NO P.O. BOX)

1830 TRUXTUN AVE STE 216

CITY

STATE

ZIP CODE

AREA CODE/PHONE

BAKERSFIELD

CA 93301

(661)637-1040

MAILING ADDRESS (IF DIFFERENT)

PO BOX 665, TEHACHAPI, CA 93581-0665

FAX / E-MAIL ADDRESS

*Phillip.Wyman@gmail.com*

COUNTY OF DOMICILE

KERN

JURISDICTION WHERE COMMITTEE IS ACTIVE

**2. Treasurer and Other Principal Officers**

NAME OF TREASURER

JAMES O'HEARN

STREET ADDRESS (NO P.O. BOX)

1830 TRUXTUN AVE STE 216

CITY

STATE

ZIP CODE

AREA CODE/PHONE

BAKERSFIELD

CA 93301

*661.637-1040*

NAME OF ASSISTANT TREASURER, IF ANY

STREET ADDRESS (NO P.O. BOX)

CITY

STATE

ZIP CODE

AREA CODE/PHONE

NAME OF PRINCIPAL OFFICER(S)

STREET ADDRESS (NO P.O. BOX)

CITY

STATE

ZIP CODE

AREA CODE/PHONE

Attach additional information on appropriately labeled continuation sheets.

**3. Verification**

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 02/25/2014

DATE

By

*[Signature]*

SIGNATURE OF TREASURER OR ASSISTANT TREASURER

Executed on 02/25/2014

DATE

By

*[Signature]*

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on \_\_\_\_\_

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

Executed on \_\_\_\_\_

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

**Statement of Organization  
Recipient Committee**

INSTRUCTIONS ON REVERSE

Page 2

I.D. NUMBER

COMMITTEE NAME

WYMAN FOR ATTORNEY GENERAL 2014

- All committees must list the financial institution where the campaign bank account is located.

NAME OF FINANCIAL INSTITUTION <b>BANK OF THE WEST</b>	AREA CODE/PHONE <b>(661)822-4491</b>	BANK ACCOUNT NUMBER <b>ACCT # 03336499</b>	
ADDRESS <b>758 TUCKER RD</b>	CITY <b>TEHACHAPI</b>	STATE <b>CA</b>	ZIP CODE <b>93561</b>

**4. Type of Committee** Complete the applicable sections.

**Controlled Committee**

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan."
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROPONENT	ELECTIVE OFFICE SOUGHT OR HELD (INCLUDE DISTRICT NUMBER IF APPLICABLE)	YEAR OF ELECTION	PARTY
PHILLIP D WYMAN	ATTORNEY GENERAL	2014	<input type="checkbox"/> Nonpartisan <b>REPUBLICAN</b>
			<input type="checkbox"/> Nonpartisan

**Primarily Formed Committee**

Primarily formed to support or oppose specific candidates or measures in a single election. List below:

CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER)	CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION (INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE)	CHECK ONE	
		SUPPORT	OPPOSE
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>



**Statement of Organization  
Recipient Committee**

INSTRUCTIONS ON REVERSE

COMMITTEE NAME

WYMAN FOR ATTORNEY GENERAL 2014

Page 3

I.D. NUMBER

**4. Type of Committee** (Continued)

**General Purpose Committee**

Not formed to support or oppose specific candidates or measures in a single election. Check only one box:

CITY Committee  COUNTY Committee  STATE Committee

PROVIDE BRIEF DESCRIPTION OF ACTIVITY

**Sponsored Committee**

List additional sponsors on an attachment.

NAME OF SPONSOR

INDUSTRY GROUP OR AFFILIATION OF SPONSOR

STREET ADDRESS

NO. AND STREET

CITY

STATE

ZIP CODE

**Small Contributor Committee**

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date qualified

**5. Termination Requirements**

By signing the verification, the treasurer, assistant treasurer and/or candidate, officeholder, or proponent certify that all of the following conditions have been met:

- This committee has ceased to receive contributions and make expenditures;
- This committee does not anticipate receiving contributions or making expenditures in the future;
- This committee has eliminated or has no intention or ability to discharge all debts, loans received, and other obligations;
- This committee has no surplus funds; and
- This committee has filed all campaign statements required by the Political Reform Act disclosing all reportable transactions.
  - There are restrictions on the disposition of surplus campaign funds held by elected officers who are leaving office and by defeated candidates. Refer to Government Code Section 89519.
  - Leftover funds of ballot measure committees may be used for political, legislative or governmental purposes under Government Code Sections 89511 - 89518, and are subject to Elections Code Section 18680 and FPPC Regulation 18521.5.

**Exhibit A-10**

R15  
C

1364275

### Statement of Organization Recipient Committee

Statement Type  Initial  Amendment  Termination - See Part 5 of the office of the Secretary of State of the State of California  
Not yet qualified  or

List I.D. number: # 1364275 # \_\_\_\_\_  
Date qualified as committee 3/13/2014 Date of Termination \_\_\_\_\_  
(If applicable)

**RECEIVED AND FILED**  
MAR 10 2014  
Hand Delivered, Sacramento

**CALIFORNIA FORM 410**  
For Official Use Only  
*[Signature]*

#### 1. Committee Information

NAME OF COMMITTEE  
WYMAN FOR ATTORNEY GENERAL 2014  
STREET ADDRESS (NO P.O. BOX)  
1830 Truxtun Ave Ste 216  
CITY STATE ZIP CODE AREA CODE/PHONE  
Bakersfield CA 93301 661.637-1040  
MAILING ADDRESS (IF DIFFERENT)  
P.O. Box 665, Tehachas, CA 93581  
FAX / E-MAIL ADDRESS  
Philip.D.Wyman@gmail.com  
COUNTY OF DOMICILE JURISDICTION WHERE COMMITTEE IS ACTIVE  
Kern

#### 2. Treasurer and Other Principal Officers

NAME OF TREASURER  
JAMES O'HEARN  
STREET ADDRESS (NO P.O. BOX)  
1830 Truxtun Ave Ste 216  
CITY STATE ZIP CODE AREA CODE/PHONE  
Bakersfield CA 93301 661.637-1040  
NAME OF ASSISTANT TREASURER, IF ANY  
Philip D. Wyman  
STREET ADDRESS (NO P.O. BOX)  
17304 Water Canyon Rd  
CITY STATE ZIP CODE AREA CODE/PHONE  
TEHACHAS CA 93561 661.444-6713  
NAME OF PRINCIPAL OFFICER(S)  
STREET ADDRESS (NO P.O. BOX)  
CITY STATE ZIP CODE AREA CODE/PHONE

Attach additional information on appropriately labeled continuation sheets.

#### 3. Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 3/10/2014 By [Signature]  
DATE SIGNATURE OF TREASURER OR ASSISTANT TREASURER  
Executed on 3/10/2014 By [Signature]  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT  
Executed on \_\_\_\_\_ By \_\_\_\_\_  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT  
Executed on \_\_\_\_\_ By \_\_\_\_\_  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

**Exhibit A-11**

# Recipient Committee Campaign Statement

(Government Code Sections 84200-84216.5)

Type or print in ink.

COVER PAGE

**CALIFORNIA**  
2001/02  
**FORM 460**

Date Stamp

Page 1 of 14

For Official Use Only

<b>Statement covers period</b> from <u>07/01/2017</u>  through <u>12/31/2017</u>	<b>Date of election if applicable:</b> (Month, Day, Year)  <u>06/06/2006</u>
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SEE INSTRUCTIONS ON REVERSE

## 1. Type of Recipient Committee: All Committees - Complete Parts 1,2,3, and 4.

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Officeholder, Candidate Controlled Committee<br><input checked="" type="checkbox"/> State Candidate Election Committee<br><input type="checkbox"/> Recall<br>(Also Complete Part 5.)<br><input type="checkbox"/> General Purpose Committee<br><input type="checkbox"/> Sponsored<br><input type="checkbox"/> Small Contributor Committee<br><input type="checkbox"/> Political Party/Central Committee | <input type="checkbox"/> Ballot Measure Committee<br><input type="checkbox"/> Primary Formed<br><input type="checkbox"/> Controlled<br><input type="checkbox"/> Sponsored<br>(Also Complete Part 6.)<br><input type="checkbox"/> Primary Formed Candidate/<br>Officeholder Committee<br>(Also Complete Part 7.) |
|--|---|

## 2. Type of Statement:

- |  |  |
|--|--|
| <input type="checkbox"/> Pre-election Statement<br><input checked="" type="checkbox"/> Semi-annual Statement<br><input type="checkbox"/> Termination Statement<br><input type="checkbox"/> Amendment (Explain below) | <input type="checkbox"/> Quarterly Statement<br><input type="checkbox"/> Special Odd-Year Report<br><input type="checkbox"/> Supplemental Preelection<br>Statement - Attach Form 495 |
|--|--|

## 3. Committee Information

I.D. NUMBER  
1364275

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)  
WYMAN FOR ATTORNEY GENERAL 2014

STREET ADDRESS (NO P.O. BOX)  
110 WALNUT DR.

CITY	STATE	ZIP CODE	AREA CODE/PHONE
TEHACHAPI	CA	93561	6614315999

MAILING ADDRESS (IF DIFFERENT) NO. AND STREET OR P.O. BOX  
P O BOX 665

CITY	STATE	ZIP CODE	AREA CODE/PHONE
TEHACHAPI	CA	93581	

OPTIONAL: FAX/E-MAIL ADDRESS  
phillip.wyman@gmail.com

## Treasurer(s)

NAME OF TREASURER  
JAMES O'HEARN

MAILING ADDRESS  
PO BOX 665

CITY	STATE	ZIP CODE	AREA CODE/PHONE
TEHACHAPI	CA	93581	6614315999

NAME OF ASSISTANT TREASURER, IF ANY

MAILING ADDRESS

CITY	STATE	ZIP CODE	AREA CODE/PHONE
------	-------	----------	-----------------

OPTIONAL: FAX/E-MAIL ADDRESS  
westinc@gmail.com

## 4. Verification

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 03/26/2018 By JAMES M O'HEARN  
DATE SIGNATURE OF TREASURER OR ASSISTANT TREASURER

Executed on 03/26/2018 By PHILLIP WYMAN  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROPONENT OR RESPONSIBLE OFFICER OF SPONSOR

Executed on \_\_\_\_\_ By \_\_\_\_\_  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROPONENT

Executed on \_\_\_\_\_ By \_\_\_\_\_  
DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROPONENT

**FPPC Form 460 (June/01)**  
**FPPC Toll-Free Helpline: 866/ASK-FPPC**  
**State of California**

**Recipient Committee  
Campaign Statement  
Cover Page – Part 2**

Type or print in ink.

COVER PAGE - PART 2

**CALIFORNIA  
FORM 460**

Page 2 of 14

**5. Officeholder or Candidate Controlled Committee**

NAME OF OFFICEHOLDER OR CANDIDATE

PHILLIP WYMAN

OFFICE SOUGHT OR HELD (INCLUDE LOCATION AND DISTRICT NUMBER IF APPLICABLE)

Attorney General  
Statewide

RESIDENTIAL/BUSINESS ADDRESS (NO. AND STREET) CITY STATE ZIP

PO BOX 665 TEHACHAPI ca 93581

**Related Committees Not Included in this Statement:** List any committees not included in this statement that are controlled by you or are primarily formed to receive contributions or to make expenditures on behalf of your candidacy.

COMMITTEE NAME I.D. NUMBER

NAME OF TREASURER CONTROLLED COMMITTEE?

YES  NO

COMMITTEE ADDRESS STREET ADDRESS (NO P.O.BOX)

CITY STATE ZIP CODE AREA CODE/PHONE

COMMITTEE NAME I.D. NUMBER

NAME OF TREASURER CONTROLLED COMMITTEE?

YES  NO

COMMITTEE ADDRESS STREET ADDRESS (NO P.O.BOX)

CITY STATE ZIP CODE AREA CODE/PHONE

**6. Ballot Measure Committee**

NAME OF BALLOT MEASURE

BALLOT NO. OR LETTER JURISDICTION

SUPPORT  
 OPPOSE

**Identify the controlling officeholder, candidate, or state measure proponent, if any.**

NAME OF OFFICEHOLDER, CANDIDATE, OR PROPONENT

OFFICE SOUGHT OR HELD DISTRICT NO. IF ANY

**7. Primarily Formed Committee** List names of officeholder(s) or candidate(s) for which this committee is primarily formed.

NAME OF OFFICEHOLDER OR CANDIDATE OFFICE SOUGHT OR HELD

SUPPORT  
 OPPOSE

NAME OF OFFICEHOLDER OR CANDIDATE OFFICE SOUGHT OR HELD

SUPPORT  
 OPPOSE

NAME OF OFFICEHOLDER OR CANDIDATE OFFICE SOUGHT OR HELD

SUPPORT  
 OPPOSE

NAME OF OFFICEHOLDER OR CANDIDATE OFFICE SOUGHT OR HELD

SUPPORT  
 OPPOSE

Attach continuation sheets if necessary

**Recipient Committee  
Campaign Statement  
Cover Page – Part 2**

Type or print in ink.

COVER PAGE - PART 2

**CALIFORNIA  
FORM 460**

Page 3 of 14

**5. Officeholder or Candidate Controlled Committee**

NAME OF OFFICEHOLDER OR CANDIDATE

PHILLIP WYMAN

OFFICE SOUGHT OR HELD (INCLUDE LOCATION AND DISTRICT NUMBER IF APPLICABLE)

Attorney General  
Statewide

RESIDENTIAL/BUSINESS ADDRESS (NO. AND STREET) CITY STATE ZIP

PO BOX 665 TEHACHAPI ca 93581

**Related Committees Not Included in this Statement:** List any committees not included in this statement that are controlled by you or are primarily formed to receive contributions or to make expenditures on behalf of your candidacy.

COMMITTEE NAME I.D.NUMBER

NAME OF TREASURER CONTROLLED COMMITTEE?

YES  NO

COMMITTEE ADDRESS STREET ADDRESS (NO P.O.BOX)

CITY STATE ZIP CODE AREA CODE/PHONE

COMMITTEE NAME I.D.NUMBER

NAME OF TREASURER CONTROLLED COMMITTEE?

YES  NO

COMMITTEE ADDRESS STREET ADDRESS (NO P.O.BOX)

CITY STATE ZIP CODE AREA CODE/PHONE

**6. Ballot Measure Committee**

NAME OF BALLOT MEASURE

BALLOT NO. OR LETTER

JURISDICTION

SUPPORT  
 OPPOSE

**Identify the controlling officeholder, candidate, or state measure proponent, if any.**

NAME OF OFFICEHOLDER, CANDIDATE, OR PROPONENT

OFFICE SOUGHT OR HELD

DISTRICT NO. IF ANY

**7. Primarily Formed Committee**

List names of officeholder(s) or candidate(s) for which this committee is primarily formed.

NAME OF OFFICEHOLDER OR CANDIDATE OFFICE SOUGHT OR HELD

SUPPORT  
 OPPOSE

NAME OF OFFICEHOLDER OR CANDIDATE OFFICE SOUGHT OR HELD

SUPPORT  
 OPPOSE

NAME OF OFFICEHOLDER OR CANDIDATE OFFICE SOUGHT OR HELD

SUPPORT  
 OPPOSE

NAME OF OFFICEHOLDER OR CANDIDATE OFFICE SOUGHT OR HELD

SUPPORT  
 OPPOSE

Attach continuation sheets if necessary

# Campaign Disclosure Statement Summary Page

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SUMMARY PAGE

Statement covers period	<b>CALIFORNIA FORM 460</b>
from <u>07/01/2017</u>	
through <u>12/31/2017</u>	Page <u>4</u> of <u>14</u>
I.D. NUMBER 1364275	

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

## Contributions Received

		Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B CALENDAR YEAR TOTAL TO DATE
1. Monetary Contributions .....	Schedule A, Line 3	\$0.00	\$0.00
2. Loans Received .....	Schedule B, Line 7	\$0.00	\$0.00
3. SUBTOTAL CASH CONTRIBUTIONS .....	Add Lines 1 + 2	\$0.00	\$0.00
4. Nonmonetary Contributions .....	Schedule C, Line 3	\$0.00	\$0.00
5. TOTAL CONTRIBUTIONS RECEIVED .....	Add Lines 3 + 4	\$0.00	\$0.00

### Calendar Year Summary for Candidates Running in Both the State Primary and General Elections

	1/1 through 6/30	7/1 to Date
20. Contribution Received	\$0.00	\$0.00
21. Expenditures Made	\$0.00	\$0.00

## Expenditures Made

		\$0.00	\$0.00
6. Payments Made .....	Schedule E, Line 4	\$0.00	\$0.00
7. Loans Made .....	Schedule H, Line 7	\$0.00	\$0.00
8. SUBTOTAL CASH PAYMENTS .....	Add Lines 6 + 7	\$0.00	\$0.00
9. Accrued Expenses (Unpaid Bills) .....	Schedule F, Line 3	\$0.00	\$0.00
10. Nonmonetary Adjustment .....	Schedule C, Line 3	\$0.00	\$0.00
11. TOTAL EXPENDITURES MADE .....	Add Lines 8 + 9 + 10	\$0.00	\$0.00

### Expenditure Limit Summary for State Candidates

#### 22. Cumulative Expenditures Made\* (If Subject to Voluntary Expenditure Limit)

Date of Election (mm/dd/yy)	Total to Date
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

## Current Cash Statement

12. Beginning Cash Balance .....	Previous Summary Page, Line 16	\$785.52
13. Cash Receipts .....	Column A, Line 3 above	\$0.00
14. Miscellaneous Increases to Cash .....	Schedule I, Line 4	\$0.00
15. Cash Payments .....	Column A, Line 8 above	\$0.00
16. <b>ENDING CASH BALANCE</b> .....	Add Lines 12 + 13 + 14, then subtract Line 15	\$785.52
If this is a termination statement, Line 16 must be zero.		

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

17. LOAN GUARANTEES RECEIVED.....	Schedule B, Part 2	\$0.00
-----------------------------------	--------------------	--------

## Cash Equivalents and Outstanding Debts

18. Cash Equivalents .....	See instructions on reverse	\$0.00
19. Outstanding Debts .....	Add Line 2 + Line 9 in Column B above	\$0.00

\*Since January 1, 2001. Amounts in this section may be different from amounts reported in Column B.



# Schedule A Monetary Contributions Received

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE A

Statement covers period  
from 07/01/2017  
through 12/31/2017

**CALIFORNIA FORM 460**

Page 5 of 14

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

I.D. Number  
1364275

DATE RECEIVED	FULL NAME, MAILING ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				

**SUBTOTAL** \$0.00

## Schedule A Summary

- Amount received this period - contributions of \$100 or more.  
(Include all Schedule A subtotals.) \_\_\_\_\_
- Amount received this period - unitemized contributions of less than \$100 \_\_\_\_\_
- Total monetary contributions received this period.  
(Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Line 1.) ..... **TOTAL** \_\_\_\_\_

\*Contributor Codes  
 IND - Individual  
 COM - Recipient Committee  
       (other than PTY or SCC)  
 OTH - Other  
 PTY - Political Party  
 SCC - Small Contributor Committee

# Schedule B - Part 1 Loans Received

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period from <u>07/01/2017</u> through <u>12/31/2017</u>	<b>CALIFORNIA FORM 460</b>
	Page <u>6</u> of <u>14</u>

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

I.D. NUMBER  
1364275

FULL NAME, STREET ADDRESS AND ZIP CODE OF LENDER (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	(a) OUTSTANDING BALANCE BEGINNING THIS PERIOD	(b) AMOUNT RECEIVED THIS PERIOD	(c) AMOUNT PAID OR FORGIVEN THIS PERIOD*	(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	(e) INTEREST PAID THIS PERIOD	(f) ORIGINAL AMOUNT OF LOAN	(g) CUMULATIVE CONTRIBUTIONS TO DATE
PHILLIP WYMAN PO BOX 665 TEHACHAPI, CA 93581  <input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	WYMAN & ASSOCIATES	\$45,004.23		<input type="checkbox"/> PAID  <input type="checkbox"/> FORGIVEN	\$45,004.23  DATE DUE	  RATE %	\$90,000.00  5/15/2006 DATE INCURRED	CALENDAR YEAR \$0.00 PER ELECTION**
<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				<input type="checkbox"/> PAID  <input type="checkbox"/> FORGIVEN		RATE %		CALENDAR YEAR PER ELECTION**
<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				<input type="checkbox"/> PAID  <input type="checkbox"/> FORGIVEN		RATE %		CALENDAR YEAR PER ELECTION**
<b>SUBTOTALS</b>					\$45,004.23			

## Schedule B Summary

1. Loans received this period. \_\_\_\_\_ \$0.00  
(Total Column (b) plus unitemized loans less than \$100.)

2. Loans paid or forgiven this period \_\_\_\_\_ \$0.00  
(Total Column (c) plus loans under \$100 paid or forgiven.)  
(Include loans paid by a third party that are also itemized on Schedule A.)

3. Net change this period. (Subtract Line 2 from Line 1.) **Net** \$0.00  
Enter the net here and on the Summary Page, Column A, Line 2. (may be a negative number)

(Enter (e) on  
Schedule E, Line 3)

\* Amounts forgiven or paid by  
another party also must be  
reported on Schedule A.

\*\* If required.

\*Contributor Codes

IND-Individual COM-Recipient Committee (other than PTY or SCC) OTH-Other PTY-Political Party SCC-Small Contributor Committee

**Schedule B - Part 2**  
**Loan Guarantors**

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period from <u>07/01/2017</u> through <u>12/31/2017</u>	<b>CALIFORNIA FORM 460</b>
	Page <u>7</u> of <u>14</u>
	I.D. Number 1364275

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

FULL NAME, STREET ADDRESS AND ZIP CODE OF GUARANTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	LOAN	AMOUNT GUARANTEED THIS PERIOD	CUMULATIVE TO DATE	BALANCE OUTSTANDING TO DATE
	<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		LENDER _____ DATE _____		CALENDAR YEAR _____ PER ELECTION (IF REQUIRED) _____	
	<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		LENDER _____ DATE _____		CALENDAR YEAR _____ PER ELECTION (IF REQUIRED) _____	
	<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		LENDER _____ DATE _____		CALENDAR YEAR _____ PER ELECTION (IF REQUIRED) _____	
	<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		LENDER _____ DATE _____		CALENDAR YEAR _____ PER ELECTION (IF REQUIRED) _____	

**SUBTOTAL**

Enter on  
Summary Page,  
Line 17 only.

# Schedule C Nonmonetary Contributions Received

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE C

Statement covers period from <u>07/01/2017</u> through <u>12/31/2017</u>	<b>CALIFORNIA FORM 460</b>
	Page <u>8</u> of <u>14</u>
	I.D. Number 1364275

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	DESCRIPTION OF GOODS OR SERVICES	AMOUNT/ FAIR MARKET VALUE	CUMULATIVE TO DATE CALENDAR YEAR (JAN 1 - DEC 31)	PER ELECTION TO DATE (IF REQUIRED)
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC					
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC					
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC					
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC					

Attach additional information on appropriately labeled continuation sheets.

**SUBTOTAL**

## Schedule C Summary

- Amount received this period - nonmonetary contributions of \$100 or more.  
(Include all Schedule C subtotals.)..... \_\_\_\_\_
- Amount received this period - unitemized nonmonetary contributions of less than \$100 ..... \_\_\_\_\_
- Total nonmonetary contributions received this period.  
(Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Lines 4 and 10.) ..... **TOTAL** \_\_\_\_\_

\*Contributor Codes  
 IND - Individual  
 COM- Recipient Committee  
 (other than PTY or SCC)  
 OTH - Other  
 PTY - Political Party  
 SCC - Small Contributor Committee

**Schedule D  
Summary of Expenditures  
Supporting/Opposing Other  
Candidates, Measures and Committees**

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE D

Statement covers period  
from 07/01/2017  
through 12/31/2017

**CALIFORNIA  
FORM 460**

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SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

I.D. NUMBER  
1364275

DATE	NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	TYPE OF PAYMENT	DESCRIPTION (IF REQUIRED)	AMOUNT THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN.1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure				
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure				
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure				

**SUBTOTAL**

**Schedule D Summary**

1. Contributions and independent expenditures made this period of \$100 or more. (Include all Schedule D subtotals.) \_\_\_\_\_
2. Unitemized contributions and independent expenditures made this period of under \$100 \_\_\_\_\_
3. Total contributions and independent expenditures made this period. (Add Lines 1 and 2. Do not enter on the Summary Page.) ..... **TOTAL** \_\_\_\_\_

# Schedule E Payments Made

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period		<b>CALIFORNIA FORM 460</b>
from	07/01/2017	
through	12/31/2017	Page 10 of 14
NAME OF FILER WYMAN FOR ATTORNEY GENERAL 2014		I.D. NUMBER 1364275

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

**CODES:** If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- |   |   |   |
|---|---|---|
| CMP campaign paraphernalia/misc.                                  | MBR member communications                     | RAD radio airtime and production costs                        |
| CNS campaign consultants  | MTG meetings and appearances                  | RFD returned contributions                                    |
| CTB contribution (explain nonmonetary)*                           | OFC office expenses                           | SAL campaign workers' salaries                                |
| CVC civic donations   | PET petition circulating                      | TEL t.v. or cable airtime and production costs                |
| FIL candidate filing/ballot fees                                  | PHO phone banks                               | TRC candidate travel, lodging, and meals                      |
| FND fundraising events  | POL polling and survey research               | TRS staff/spouse travel, lodging, and meals                   |
| IND independent expenditure supporting/opposing others (explain)* | POS postage, delivery and messenger services  | TSF transfer between committees of the same candidate/sponsor |
| LEG legal defense   | PRO professional services (legal, accounting) | VOT voter registration  |
| LIT campaign literature and mailings                              | PRT print ads                                 | WEB information technology costs (internet, email)            |

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID

\* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

**SUBTOTAL**

## Schedule E Summary

1. Payments made this period of \$100 or more. (Include all Schedule E subtotals.) .....
2. Unitemized payments made this period of under \$100. ....
3. Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).) .....
4. Total payments made this period. (Add lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.) ..... **TOTAL** .....

# Schedule F Accrued Expenses (Unpaid Bills)

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period		<b>CALIFORNIA FORM 460</b>
from	07/01/2017	
through	12/31/2017	Page 11 of 14
NAME OF FILER WYMAN FOR ATTORNEY GENERAL 2014		I.D. NUMBER 1364275

SEE INSTRUCTIONS ON REVERSE

**CODES:** If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- |   |   |   |
|---|---|---|
| CMP campaign paraphernalia/misc.                                  | MBR member communications                     | RAD radio airtime and production costs                        |
| CNS campaign consultants  | MTG meetings and appearances                  | RFD returned contributions                                    |
| CTB contribution (explain nonmonetary)*                           | OFC office expenses                           | SAL campaign workers' salaries                                |
| CVC civic donations   | PET petition circulating                      | TEL t.v. or cable airtime and production costs                |
| FIL candidate filing/ballot fees                                  | PHO phone banks                               | TRC candidate travel, lodging, and meals                      |
| FND fundraising events  | POL polling and survey research               | TRS staff/spouse travel, lodging, and meals                   |
| IND independent expenditure supporting/opposing others (explain)* | POS postage, delivery and messenger services  | TSF transfer between committees of the same candidate/sponsor |
| LEG legal defense   | PRO professional services (legal, accounting) | VOT voter registration  |
| LIT campaign literature and mailings                              | PRT print ads                                 | WEB information technology costs (internet, email)            |

NAME AND ADDRESS OF CREDITOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR DESCRIPTION OF PAYMENT	(a) OUTSTANDING BALANCE BEGINNING OF THIS PERIOD	(b) AMOUNT INCURRED THIS PERIOD	(c) AMOUNT PAID THIS PERIOD (ALSO REPORT ON E)	(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD

\* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

**SUBTOTALS**

## Schedule F Summary

- Total accrued expenses incurred this period. (Include all Schedule F, Column (b) subtotals for accrued expenses of \$100 or more, plus total unitemized accrued expenses under \$100.)..... **INCURRED TOTALS** \_\_\_\_\_
- Total accrued expenses paid this period. (Include all Schedule F, Column (c) subtotals for payments on accrued expenses of \$100 or more, plus total unitemized payments on accrued expenses under \$100.)..... **PAID TOTALS** \_\_\_\_\_
- Net change this period. (**Subtract** Line 2 from Line 1. Enter the difference here and on the Summary Page, Column A, Line 9.)..... **NET** \_\_\_\_\_  
May be a negative number.

**Schedule G  
Payments Made by an Agent or Independent  
Contractor (on Behalf of This Committee)**

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period  
from 07/01/2017  
through 12/31/2017

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

I.D. NUMBER  
1364275

NAME OF AGENT OR INDEPENDENT CONTRACTOR

**CODES:** If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- |   |   |   |
|---|---|---|
| CMP campaign paraphernalia/misc.                                  | MBR member communications                     | RAD radio airtime and production costs                        |
| CNS campaign consultants  | MTG meetings and appearances                  | RFD returned contributions                                    |
| CTB contribution (explain nonmonetary)*                           | OFC office expenses                           | SAL campaign workers' salaries                                |
| CVC civic donations   | PET petition circulating                      | TEL t.v. or cable airtime and production costs                |
| FIL candidate filing/ballot fees                                  | PHO phone banks                               | TRC candidate travel, lodging, and meals                      |
| FND fundraising events  | POL polling and survey research               | TRS staff/spouse travel, lodging, and meals                   |
| IND independent expenditure supporting/opposing others (explain)* | POS postage, delivery and messenger services  | TSF transfer between committees of the same candidate/sponsor |
| LEG legal defense   | PRO professional services (legal, accounting) | VOT voter registration  |
| LIT campaign literature and mailings                              | PRT print ads                                 | WEB information technology costs (internet, email)            |

\* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

NAME AND ADDRESS OF PAYEE OR CREDITOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID

Attach additional information on appropriately labeled continuation sheets.

**TOTAL\***

\* Do not transfer to any other schedule or to the Summary Page. This total may not equal the amount paid to the agent or independent contractor as reported on Schedule E.



**Schedule H –  
Loans Made to Others\***

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

Statement covers period from <u>07/01/2017</u> through <u>12/31/2017</u>	<b>CALIFORNIA FORM 460</b>
	Page <u>13</u> of <u>14</u>
I.D. NUMBER 1364275	

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

FULL NAME, STREET ADDRESS AND ZIP CODE OF RECIPIENT (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	(a) OUTSTANDING BALANCE BEGINNING THIS PERIOD	(b) AMOUNT LOANED THIS PERIOD	(c) REPAYMENT OR FORGIVENESS THIS PERIOD*	(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	(e) INTEREST RECEIVED	(f) ORIGINAL AMOUNT OF LOAN	(g) CUMULATIVE LOANS TO DATE
				<input type="checkbox"/> PAID  <input type="checkbox"/> FORGIVEN		_____% RATE		CALENDAR YEAR  PER ELECTION**
					DATE DUE		DATE INCURRED	
				<input type="checkbox"/> PAID  <input type="checkbox"/> FORGIVEN		_____% RATE		CALENDAR YEAR  PER ELECTION**
					DATE DUE		DATE INCURRED	
		<b>SUBTOTALS</b>						

\*Loans that are contributions to another candidate or committee must also be summarized on Schedule D. Loans forgiven must also be reported on Schedule E.

(Enter (e) on  
Schedule I, Line 3)

**Schedule H Summary**

- Loans made this period .....  
(Total Column (b) plus unitemized loans less than \$100.)
- Payments received on loans .....  
(Total Column (c) plus unitemized payments less than \$100.)
- Net change this period. (Subtract Line 2 from Line 1.) ..... **NET**  
(Enter the net here and on the Summary Page, Column A, Line 7.)

**\*\* If Required**

(May be a negative number)

**Schedule I  
Miscellaneous Increases to Cash**

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE I

Statement covers period  
from 07/01/2017  
through 12/31/2017

**CALIFORNIA FORM 460**  
Page 14 of 14  
I.D. NUMBER  
1364275

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
WYMAN FOR ATTORNEY GENERAL 2014

DATE RECEIVED	FULL NAME AND ADDRESS OF SOURCE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	DESCRIPTION OF RECEIPT	AMOUNT OF INCREASE TO CASH

Attach additional information on appropriately labeled continuation sheets.

**SUBTOTAL** \$0.00

**Schedule I Summary**

- 1. Increases to cash of \$100 or more this period..... \$0.00
- 2. Unitemized increases to cash under \$100 this period..... \$0.00
- 3. Total of all interest received this period on loans made to others. (Schedule H, Column (e).)..... \$0.00
- 4. Total miscellaneous increases to cash this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Line 14.)..... **TOTAL** \$0.00

**Exhibit A-12**

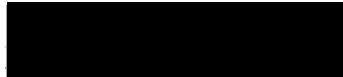


STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street, Suite 3000 • Sacramento, CA 95811

January 21, 2020

Wyman for Attorney General 2014

James M. O'Hearn



**NOTICE OF DEFAULT DECISION AND ORDER**

**Re: FPPC No. 17/378, In the Matter of WYMAN FOR ATTORNEY GENERAL 2014 and JAMES M. O'HEARN**

Dear Mr. O'Hearn:

On December 18, 2019, you were served with an accusation in the above-referenced matter. Pursuant to the Administrative Procedure Act, you were required to file a notice of defense within 15 days after service of the accusation to request an administrative hearing. You did not file a notice of defense. **As a result, you have waived your right to an administrative hearing.**<sup>1</sup>

The Fair Political Practices Commission (the "Commission") will proceed with a default decision and order ("default") against you. The initial notice of this default will appear on the published agenda for the Commission's public meeting on February 20, 2020. This agenda will be public and you could be contacted by the media with questions. The Commission will be asked to adopt the default at the subsequent public meeting on March 19, 2020, and impose an administrative penalty of \$15,000 against you.

Following the issuance of the default, the Commission will obtain a judgment in superior court for the amount owed and then take action to collect the judgment. Please be advised that administrative penalties for violations of the Political Reform Act cannot be discharged in bankruptcy proceedings.

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<sup>1</sup> Government Code section 11505.

You may still resolve this matter informally by way of a stipulated settlement if an agreement can be reached prior to this matter appearing for consideration by the Commission. Please contact me at (916) 322-5021 or [cburton@fppc.ca.gov](mailto:cburton@fppc.ca.gov) if you wish to enter into a settlement to resolve this matter in its entirety.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Burton".

Christopher B. Burton  
Senior Commission Counsel  
Enforcement Division

**Exhibit A-13**



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street, Suite 3000 • Sacramento, CA 95811

February 20, 2020

Wyman for Attorney General 2014

James M. O'Hearn  
[REDACTED]

**FINAL NOTICE OF DEFAULT DECISION AND ORDER**

**Re: FPPC No. 17/378, In the Matter of WYMAN FOR ATTORNEY GENERAL 2014  
and JAMES M. O'HEARN**

Dear Mr. O'Hearn:

Enclosed please find a copy of a Default Decision and Order, and accompanying Exhibit and attachments, for the above-referenced matter. The Fair Political Practices Commission (the "Commission") will consider these papers at its public meeting on **March 19, 2020**, and decide whether to impose an administrative penalty of \$15,000 against you.

You were previously served a Report in Support of a Finding of Probable Cause, commonly known as a Probable Cause Report, advising you of your right to request a probable cause conference or submit a written response to the probable cause report. You did not request a probable cause conference, nor did you submit anything in writing for the Commission's Hearing Officer to consider in his determination of probable cause.

Following the issuance of the Report in Support of a Finding of Probable Cause, the Commission's Hearing Officer found probable cause that you committed eight violations of the Political Reform Act's campaign provisions. Thereafter, the Commission's Chief of Enforcement issued an Accusation against you on these violations. The Accusation was served on you on December 18, 2019. Under the law, you have therefore received adequate notice of these proceedings and the action filed against you. Under the Administrative Procedure Act, you were required to file your Notices of Defense within 15 days after service of the Accusation. You failed to file the Notice of Defense forms. As such, your right to an administrative hearing on this matter has been forfeited, and you are in a default position.

You may, but you are not required to, provide a response brief, along with any supporting materials, no later than five calendar days before the Commission hearing at which the default is scheduled to be heard. Your response brief must be served on the Commission Assistant, at the above address.

Following the issuance of the default order and imposition of the administrative penalty, we will commence legal proceedings to collect this fine, which may include

converting the Commission's order to a court judgment. Please be advised that administrative penalties for violations of the Political Reform Act cannot be discharged in bankruptcy proceedings.

This letter is your last opportunity to resolve this matter informally by way of a stipulated settlement, before the default proceedings are commenced. If we do not reach a resolution, the enclosed documents will be placed on the Commission's agenda for the March 19, 2020 meeting. Please contact me at (916) 322-5021 or [cburton@fppc.ca.gov](mailto:cburton@fppc.ca.gov) if you wish to enter into a negotiated settlement.

Sincerely,



Christopher B. Burton  
Senior Commission Counsel  
Enforcement Division

Enclosures