

1 GARY S. WINUK
Chief of Enforcement
2 **FAIR POLITICAL PRACTICES COMMISSION**
428 J Street, Suite 620
Sacramento, CA 95814
3 Telephone: (916) 322-5660
Facsimile: (916) 322-1932

4 Attorney for Complainant
5
6

7 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
8 **STATE OF CALIFORNIA**

9
10 In the Matter of) FPPC No. 11/932
11)
12 JONATHAN LEONE,)
13) **DEFAULT DECISION AND ORDER**
14 Respondent.) (Gov. Code §§ 11506 and 11520)
15)

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

18 Pursuant to the California Administrative Procedure Act,¹ Respondent Jonathan Leone has been
19 served with all of the documents necessary to conduct an administrative hearing regarding the above-
20 captioned matter, including the following:

- 21 1. An Order Finding Probable Cause;
- 22 2. An Accusation;
- 23 3. A Notice of Defense (Two Copies);
- 24 4. A Statement to Respondent; and

25
26 ¹The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections
27 11370 through 11529 of the Government Code.

1 5. Copies of Sections 11506 through 11508 of the Government Code.

2 Government Code Section 11506 provides that failure of a respondent to file a Notice of Defense
3 within 15 days after being served with an Accusation shall constitute a waiver of respondent's right to a
4 hearing on the merits of the Accusation. The Statement to Respondent, served on Respondent May 21,
5 2013, explicitly stated that a Notice of Defense must be filed in order to request a hearing. Respondent
6 failed to file a Notice of Defense within fifteen days of being served with the Accusation.

7 Government Code Section 11520 provides that, if the respondent fails to file a Notice of
8 Defense, the Commission may take action, by way of a default, based upon the respondent's express
9 admissions or upon other evidence, and that affidavits may be used as evidence without any notice to the
10 respondent.

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

15
16 Dated: _____

17 Gary S. Winuk, Chief of Enforcement
Fair Political Practices Commission

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ORDER

The Commission issues this Default Decision and Order and imposes an administrative penalty of Four Thousand Dollars (\$4,000) upon Respondent Leone, payable to the “General Fund of the State of California.”

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

Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Jonathan Leone (Respondent) has been a member of the Sausalito City Council since his election in November of 2006. He was re-elected in November of 2010 and is still serving on the City Council. His term expires in November of 2014.

Section 87200 of the Political Reform Act (Act)¹ requires certain public officials, including members of city councils, to file periodic statements disclosing specific reportable interests, commonly known as a Statement of Economic Interests (SEI) or Form 700. As a member of the Sausalito City Council, Respondent is required to file SEIs.

This matter arose out of SEI non-filer referrals sent to the Fair Political Practices Commission's Enforcement Division by the Commission's Technical Assistance Division, for Respondent's failure to timely file an Annual SEI in 2010 and 2011. For the purposes of this Default Decision and Order, Respondent's violations of the Act are:

COUNT 1: As a member of the Sausalito City Council, Respondent Jonathan Leone failed to file a 2010 Annual SEI by the April 1, 2011 due date, in violation of Government Code Section 87203.

COUNT 2: As a member of the Sausalito City Council, Respondent Jonathan Leone failed to file a 2011 Annual SEI by the April 2, 2012 due date, in violation of Government Code Section 87203.

All relevant evidence in possession of the Enforcement Division is included in the attached Certification of Records ("Certification") filed herewith at Exhibit A, A-1 through A-16, and incorporated herein by reference.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials, that may be materially affected by their official actions, be disclosed, so that conflicts of interests may be avoided. In furtherance of this purpose, Section 87200 requires certain public officials, including members of city councils, to file financial disclosure statements including investments, interests in real property, and any income received during the immediately preceding 12 months or during the period since the previous statement was filed.

¹ 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.

Under Sections 87201 through 87204: every candidate for the offices specified in Section 87200 shall file a Candidate Statement no later than the final filing date of a declaration of candidacy; every person who is elected shall then file an Assuming Office Statement within 30 days after assuming the office; throughout the duration of holding that office, he shall file an Annual Statement by April 1st of the following year;¹ and, every person who leaves office shall file a Leaving Office Statement within 30 days of leaving office.

SUMMARY OF THE FACTS

Respondent was elected to the Sausalito City Council in November of 2006 and re-elected in 2010 for an additional four-year term; thus, Respondent was required to file:

<u>Statement</u>	<u>Period Covered</u>	<u>Due</u>	<u>Filed</u>
2006 Annual	January 1, 2006 – December 31, 2006	April 2, 2007	March 23, 2007
2007 Annual	January 1, 2007 – December 31, 2007	April 1, 2008	March 24, 2008
2008 Annual	January 1, 2008 – December 31, 2008	April 1, 2009	December 9, 2009
Candidate	Election Year	Before election	August 6, 2010
2009 Annual	January 1, 2009 – December 31, 2009	April 1, 2010	September 29, 2010
2010 Annual	January 1, 2010 – December 31, 2010	April 1, 2011	Not filed
2011 Annual	January 1, 2011 – December 31, 2011	April 2, 2012	Not filed
2012 Annual	January 1, 2012 – December 31, 2012	April 1, 2013	Not filed

Respondent has had an inconsistent filing history since assuming office in November of 2006. As indicated above, Respondent has been required to file seven Annual SEIs and one candidate statement over the course of his tenure as a member of the Sausalito City Council. With respect to these eight statements, he properly filed only three times; however, Respondent did not timely file his Annual SEIs in 2008 or 2009 and has yet to file his 2010, 2011, or 2012 SEIs as required by the Act. Accordingly, the Respondent has committed five violations of the Act since November of 2006. For the purposes of this Default Decision and Order, Respondent’s violations of the Act are:

COUNTS 1 and 2

Failure to an Annual Statement of Economic Interest

As a member of the Sausalito City Council, an office specified in Section 87200, Respondent Jonathan Leone had a duty to file an annual SEI for the period covering January 1, 2010 through December 31, 2010, and January 1, 2011 through December 31, 2011, by April 1, 2011 and April 2, 2012, respectively. By failing to file an annual SEI in 2010 and 2011, Respondent committed two violations of Government Code Section 87203.

¹ Whenever the Political Reform Act requires that a statement be filed prior to or no later than a specified date, and the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for such a statement shall be extended to the next regular business day. Cal. Code Regs. tit. 2, §18116

PROCEDURAL REQUIREMENTS AND HISTORY

On July 13, 2011, the Commission's Technical Assistance Division (TAD) sent Respondent a letter informing him that he had failed to timely file his 2010 Annual SEI and advised him that if the Commission did not receive a response within 15 days, the matter would be referred to the Enforcement Division. (Certification, Exhibit A-1.) On August 30, 2011, TAD sent Respondent a second letter indicating that, to date, TAD had yet to receive the delinquent statement and that the matter would be referred to the Enforcement Division. (Certification, Exhibit A-2.) On October 5, 2011, TAD referred Respondent's 2010 non-filing to the Enforcement Division. (Certification, Exhibit A-3.)

On October 17, 2011, the Enforcement Division contacted the Respondent to notify him that because he had failed to file his 2010 Annual Statement of Economic Interest the Enforcement Division of the Fair Political Practices Commission was prepared to commence enforcement action against him. He was given an opportunity to avoid this result by filing his delinquent SEI, returning a file stamped copy to the Commission and paying an administrative penalty of \$300 no later than November 7, 2011. (Certification, Exhibit A-4.)

On November 9, 2011, after the first offer of settlement failed to illicit a response, the Enforcement Division sent Respondent a second offer to settle this matter. Just as in the first communication, the Enforcement Division informed the Respondent that they were prepared to commence an enforcement action against him, unless he filed his delinquent statement, returned a file stamped copy to the Commission, and paid an administrative penalty of \$500 no later than November 30, 2011. (Certification, Exhibit A-5.)

On December 1, 2011, a staff member from the Enforcement Division left the respondent a phone message regarding the letters sent by the division and his delinquent statement, followed by an email on the same day. (Certification, Exhibit A - 6.) On December 7, 2011, the Respondent left a voicemail stating that he had received the telephone call and would "take care of his filing and fine by next week." (Certification, Exhibit A-6.)

On January 4, 2012, a staff member from the Enforcement Division sent the Respondent another email, notifying him that he had not filed his statement or paid the fine as he indicated he would in the voicemail he left on December 7, 2011. The staff member informed him that if he did not fulfill his obligations by January 11, 2012, the penalty could increase to \$1,000. (Certification, Exhibit A-6.)

On July 6, 2012, TAD sent Respondent another notification letter informing him that he had also failed to timely file his 2011 Annual SEI. The letter advised Respondent that if the Commission did not receive a response within 15 days, the matter would be referred to the Enforcement Division. (Certification, Exhibit A-7.) On August 23, 2012, TAD sent Respondent a fourth letter indicating that, to date, TAD had yet to receive the delinquent statements and that the matter would, again, be referred to the Enforcement Division. (Certification, Exhibit A-8.) On November 13, 2012, TAD referred Respondent's 2011 non-filing to the Enforcement Division (Certification, Exhibit A-9.)

To date, the Respondent has not filed his 2010 or 2011 Annual Statement of Economic Interest.

A. Initiation of the Administrative Action

Section 91000.5 provides that “[t]he service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.” (Section 91000.5, subd. (a).)

Section 83115.5 prohibits a finding of probable cause 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 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. Additionally, Section 83115.5 states that 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.

Section 91000.5 provides that no administrative action pursuant to Chapter 3 of the Act, alleging a violation of any of the provisions of Act, shall be commenced more than five years after the date on which the violation occurred.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against Respondent in this matter by serving him with a packet containing a cover letter, a Report in Support of a Finding of Probable Cause (Report), a fact sheet regarding probable cause proceedings, selected sections of the California Government Code regarding probable cause proceedings for the Fair Political Practices Commission, and selected regulations of the Fair Political Practices Commission regarding probable cause proceedings. (Certification, Exhibit A-10.) Respondent was served by certified mail, return receipt requested.¹ The original return receipt addressed to Respondent was signed on October 31, 2012, and was returned to the Enforcement Division. (Certification, Exhibit A-11.) Therefore, the administrative action commenced on October 31, 2012, the date the registered mail receipt was signed, and the five year statute of limitations was effectively tolled on this date.

The information contained in the above-mentioned packet advised Respondent of his rights to respond in writing to the probable cause report and to request a probable cause conference. In order to exercise these rights, a proposed respondent must file the response or request with the Commission Assistant, who forwards the document(s) to the General Counsel or an attorney in the Legal Division (the “hearing officer”), not later than 21 days following service of the Report.

¹ Where any communication is required by law to be mailed by registered mail to or by the state, or any officer or agency thereof, the mailing of such communication by certified mail is sufficient compliance with the requirements of the law. (Section 8311.)

Respondent neither requested a probable cause conference nor submitted a written response to the Report.

B. Ex Parte Request for a Finding of Probable Cause

Since Respondent failed to request a probable cause conference or submit a written response to the Report by the statutory deadline, on December 28, 2012, 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. (Certification, Exhibit A-12.)

On January 8, 2013, the hearing officer, General Counsel Zackery P. Morazzini, issued a Finding of Probable Cause and Order to Prepare and Serve an Accusation. (Certification, Exhibit A-13.)

C. The Issuance and Service of the Accusation

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. (Section 83116.) Notice of the hearing, and the hearing itself, must be conducted in accordance with the California Administrative Procedure Act (APA).¹ (Section 83116.) 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. (Section 11503.)

Section 11505, subdivision (a), requires that, upon the filing of the accusation, the agency shall 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 which, 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; and 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. Subdivision (b), sets forth the language required in the accompanying statement to the respondent; and subdivision (c) provides that the Accusation may be sent to the respondent by any means selected by the agency, but that no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in Section 11505.

On January 23, 2013, the Chief of the Enforcement Division, Gary S. Winuk, issued an Accusation against Respondent in this matter, and prepared, in accordance with Section 11505, a packet of documents for Respondent consisting of a Statement to Respondent, two copies of a Notice of Defense Form, and copies of Government Code Sections 11506 through 11508. (Certification, Exhibit A-14.) The Accusation and accompanying information were personally served on Respondent on May 21, 2013. (Certification, Exhibit A-15.)

¹ The APA, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code.

The Statement to Respondent included with the Accusation packet notified Respondent of his rights under the APA to file a Notice of Defense with the Commission in which he could request a hearing on the merits, object to the Accusation's form or substance or to the adverse effects of complying with the Accusation, admit the Accusation in whole or in part, or to present new matter by way of a defense. The Statement further warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, he would be deemed to have waived the right to a hearing.

Respondent did not file a Notice of Defense within the statutory time period, which ended on June 5, 2013.

D. Default Proceedings Under the Administrative Procedure Act

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. (Section 11506, subd. (c).) 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. (Section 11520, subd. (a).)

Where a respondent has failed to timely file a notice of defense pursuant to Section 11506, and the Enforcement Division pursues a default judgment from the Commission pursuant to Section 11520, the Enforcement Division shall send notice, a copy of the proposed Default Decision and Order, and a copy of the proposed Exhibit in Support of a Default Decision and Order, by first class mail, to the respondents against whom the default judgment has been entered at least 15 calendar days before the Commission hearing at which the default is scheduled to be heard. (Cal. Code Regs. tit. 2, § 18361.11.)

On July 11, 2013, the Enforcement Division sent a letter to Respondent advising him that this matter would be submitted for a Default Decision and Order at the Commission's next public meeting scheduled for August 22, 2013. (Certification, Exhibit A-16.) A copy of the proposed Default Decision and Order and this Exhibit 1 were included with the letter.

CONCLUSION

This matter consists of two counts of violating the Act, which carry a maximum administrative penalty of \$5,000 per count, for a total of \$10,000.

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 context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate,

negligent, or inadvertent; whether the respondent(s) demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether upon learning of the violation the respondent voluntarily filed amendments to provide full disclosure.

In this matter, Respondent failed to file two Annual Statements of Economic Interest as required by the Act. The public harm inherent in these violations is that the public is deprived of important and timely information from Respondents regarding investments, interests in real property, and income during each period.

Respondent is well aware of his filing obligations having filed eleven previous statements, six of which were late, in connection with his previous position as planning commissioner and as member of Sausalito's City Council. Both the Technical Assistance and Enforcement Divisions contacted Respondent several times regarding his outstanding statements. Technical Assistance attempted to attain compliance with only the assessment of the late filing fine and Enforcement provided at least two opportunities to settle this matter with a streamlined settlement. The Respondent did not take advantage of any of these offers. Further, Respondent's failure to file is a part of his habitual pattern of late-filing or non-filing.

Respondent is still a member of the Sausalito City Council and has yet to file his outstanding annual SEIs for 2010, 2011, or 2012. There are no mitigating factors.

Similar cases regarding the failure to file Annual Statements of Economic Interests include:

- *In the Matter of James Corsaut*, FPPC No. 09/559. The Respondent failed to file two Annual Statements of Economic interest and a leaving office statement. Respondent never filed any of the missing statements. The Commission approved an administrative penalty in the amount of \$2,000 for each count on September 17, 2010.
- *Susan Bury*, FPPC No. 10/289. This case involved one count of failing to file an Annual Statement of Economic interest and one count of failing to file a leaving office statement. Respondent deliberately did not file any of her missing statements. The Commission approved a penalty of \$3,000 per count on March 15, 2012.

In this case, Respondents' actions were similar to the cases above in that Respondent Leone was well aware of his filing obligations and deliberately disregarded the request from TAD and the Enforcement Division to file his delinquent statements.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, including whether the behavior in question was inadvertent, negligent or deliberate and the presence or absence of good faith, as well as consideration of penalties in prior enforcement actions, the imposition of a penalty of two thousand dollars (\$2,000) per count for a total of four thousand dollars (\$4,000) is recommended.

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

CERTIFICATION OF RECORDS

I, the undersigned, declare and certify as follows:

1. I am employed as a paralegal by the California Fair Political Practices Commission (the "Commission"). My business address is: California Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814.
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. 11/932 Jonathan Leone*, 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 | Letter from TAD requesting compliance for Jonathan Leone's failure to file his 2010 Annual SEI, dated July 13, 2011; |
| Exhibit A-2 | Letter from TAD requesting compliance, dated August 30, 2011; |
| Exhibit A-3 | Referral from TAD to the Enforcement Division, dated October 5, 2011; |
| Exhibit A-4 | Offer of settlement sent from the Enforcement Division, dated October 17, 2011; |
| Exhibit A-5 | Second offer of settlement sent from the Enforcement Division, dated November 9, 2011; |
| Exhibit A-6 | Case chronology and emails from Enforcement Division staff; |
| Exhibit A-7 | Letter from TAD requesting compliance for Jonathan Leone's failure to file his 2011 Annual SEI, dated July 6, 2012; |
| Exhibit A-8 | Fourth letter from TAD requesting compliance, dated August 23, 2012; |
| Exhibit A-9 | Referral from TAD for Jonathan Leone's failure to file his 2011 Annual SEI, dated November 13, 2012; |
| Exhibit A-10 | Report in Support of a Finding of Probable Cause and accompanying |

- documents;
- Exhibit A-11 Copy of the Certified Mail Receipt, signed and dated October 31, 2012 and a copy of the USPS track and confirm, showing delivery;
 - Exhibit A-12 Ex Parte Request for a Finding of Probable Cause, dated December 28, 2012;
 - Exhibit A-13 Finding of Probable Cause and Order to Prepare and Serve an Accusation, dated January 8, 2013;
 - Exhibit A-14 Accusation and accompanying documents, dated January 23, 2013
 - Exhibit A-15 Proof of Service of Accusation, dated May 21, 2013;
 - Exhibit A-16 Copy of the Letter from Commission Chief of Enforcement, Gary Winuk, advising Jonathan Leone that this matter would be submitted for a Default Decision and Order, dated July 11, 2013.

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

Executed on July 11, 2013 in Sacramento, California.



Tracey Frazier
Paralegal
Fair Political Practices Commission

EXHIBIT A-1

DEFAULT DECISION AND ORDER
FPPC NO. 11/932



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

July 13, 2011

Jonathon Leone
City Council Member
City of Sausalito
1001 Bridgeway Suite 648
Sausalito, California 94965

Re: Statement of Economic Interests – Form 700
Type of Statement: **2010 Annual**
Date Statement Due: **April 1, 2011**

Dear Mr. Leone:

The Fair Political Practices Commission has not received your Statement of Economic Interests, Form 700, which was due on the date indicated above.

To comply with your filing requirements, please take the following steps:

1. Complete the enclosed Form 700 and return it to the **Fair Political Practices Commission at 428 J Street, Suite 620, Sacramento, CA 95814.**
2. If you wish to request a waiver of the late filing penalty, please review the enclosed Guidelines for Waiving Late Fines and submit your written request along with your filing. Enclosed is a waiver request form for your convenience. If we do not receive your waiver request along with your filing you will be required to pay the full \$100 fine.
3. If you feel you do not qualify for a waiver, send a \$100 check or money order payable to the State of California along with your filing, to the above address.

If we do not receive a response from you within 15 days from the date of this letter, this matter will be referred to our Enforcement Division. Please be advised that in addition to the late filing penalties imposed by Section 91013, Government Code Section 83116 provides that a fine of up to \$5,000 per violation may be imposed. Payment of the late fine under Section 91013 does not preclude further enforcement action, including the imposition of the additional fine under Section 83116.

A copy of your statement will be forwarded to your filing official. We are here to assist you. If you have any questions, please call me at (916) 327-2756.

Sincerely,

A handwritten signature in cursive script that reads "Theresa Poon".

Theresa Poon
Staff Services Analyst
Technical Assistance Division

Enclosures: Waiver Guidelines/Request Form
cc: Debbie Pagliaro ✓

415-297-4356 Left a message 8/3/11

EXHIBIT A-2

DEFAULT DECISION AND ORDER
FPPC NO. 11/932



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

August 30, 2011

Jonathon Leone
City Council Member
City of Sausalito
1001 Bridgeway Suite 648
Sausalito, California 94965

Re: Statement of Economic Interests – Form 700
Type of Statement: **2010 Annual**

Dear Mr. Leone:

According to our records, on July 13, 2011, you were notified that the Fair Political Practices Commission had not received your Statement of Economic Interests - Form 700, which was due on April 1, 2011. We advised you to file your statement in order to avoid referral to our Enforcement Division. However, to date we have not received your statement; therefore an Enforcement referral is being made.

Mail your completed Form 700 and a \$100 check or money order to the Fair Political Practices Commission, 428 J Street, Ste. 620, Sacramento, CA 95814. The check or money order should be payable to the State of California.

Untimely filing of statements of economic interests deprives the public of information related to your governmental duties and is a breach of an express purpose of the Political Reform Act to ensure that assets and income of public officials are promptly disclosed.

Please be advised that in addition to the late filing penalties imposed by Section 91013, Government Code Section 83116 provides that a fine of up to \$5,000 per violation may be imposed. Payment of the late filing fine under Section 91013 does not preclude further enforcement action, including the imposition of the additional fine under Section 83116.

If you have any questions, please call me at (916) 327-2756.

Sincerely,

A handwritten signature in cursive script that reads "Theresa Poon".

Theresa Poon
Staff Services Analyst
Technical Assistance Division

cc: Debbie Pagliaro ✓

EXHIBIT A-3

**DEFAULT DECISION AND ORDER
FPPC NO. 11/932**

FPPC Statement of Economic Interests Unit
Form 700 Non-Filer Enforcement Referral
(Staff Use Only)

I. NON-FILER INFORMATION

Name: Jonathon Leone
Position: City Council Member Currently Holding Position? Yes No
Agency: City of Sausalito Employer (if known): _____
 Expanded - Agency: _____
Address: 1001 Bridgeway, Suite 648, Sausalito, CA 94965

Telephone (Work): 415-297-4356 Telephone (Home): _____

II. FPPC STAFF AND FILING OFFICIAL INFORMATION

FPPC Staff: Theresa Poon Telephone: 916-327-2756
Filing Official: Debbie Pagliaro Title: City Clerk
Address: 420 Litho Street, Sausalito, CA 94965
Telephone: 415-289-4165 Fax: 415-289-4175 E-mail: dpagliaro@ci.sausalito.ca.us

III. STATEMENT INFORMATION

Type of Non-Filed Statement:
 Assuming 10 Annual Leaving Candidate Date Due: 04 / 01 / 11
Year W ___ L ___
Prior Filing History:
Date Assumed Office: 06 / 28 / 00 Date Left Office: ___/___/___
No. of Prior Filings: 11 No. of Prior Late Filings: 6 Computer Printout Attached Yes No
(Attach copy of most recent statement filed.)

IV. NOTIFICATIONS: Attach copies of letters, phone logs, e-mails or other documentation.

FPPC Notifications	Filing Official Notifications
Date: <u>08 / 30 / 11</u> <input type="radio"/> Verbal <input checked="" type="radio"/> Written	Date: ___/___/___ <input type="radio"/> Verbal <input type="radio"/> Written
Date: <u>07 / 13 / 11</u> <input type="radio"/> Verbal <input checked="" type="radio"/> Written	Date: ___/___/___ <input type="radio"/> Verbal <input type="radio"/> Written
Date: ___/___/___ <input type="radio"/> Verbal <input type="radio"/> Written	Date: ___/___/___ <input type="radio"/> Verbal <input type="radio"/> Written

Comments: see note on letter

D. Murray 10/5/11
Supervisor's Signature Date

11 OCT - 6 AM 9:43
RECEIVED
FPPC STAFF USE (02-11)
Enforcement Referral

EXHIBIT A-4

DEFAULT DECISION AND ORDER
FPPC NO. 11/932



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

**Settlement Communication Made Pursuant to
Evidence Code Sections 1152 and 1154**

October 17, 2011

Mr. Jonathon Leone
1001 Bridgeway, Suite 648
Sausalito, CA 94965

Re: FPPC File No. 11/932; Jonathon Leone

Dear Mr. Leone:

On October 6, 2011, the Enforcement Division of the Fair Political Practices Commission received a non-filer referral from the Commission's Technical Assistance Division for your failure to file your 2010 Annual Statement of Economic Interests by April 1, 2011 regarding your position as a city councilmember with the City of Sausalito.

By failing to file your 2010 annual statement by the April 1, 2011 deadline, you have violated the provisions of the Political Reform Act (the "Act").¹ The Enforcement Division may now commence an enforcement action against you, and obtain an order that you pay a monetary penalty to the State of California of up to \$5,000 for the violation.

Before commencing that enforcement action, you are encouraged to participate in the Enforcement Division's streamlined statement of economic interests enforcement program wherein we can significantly reduce that penalty if you comply with filing your 2010 Statement of Economic Interests and stipulate to a reduced administrative penalty of \$200, as well as the \$100 late filing fine assessed by the Technical Assistance Division, within 21 days. To take advantage of this offer you must:

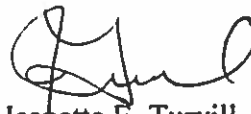
- 1) Complete the enclosed Form 700 and any appropriate schedules;

¹ The Political Reform 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 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.

- 2) Return the Form 700, along with the signed and dated Stipulation, Decision and Order; and
- 3) Include a cashier's check or money order (not a personal check) in the amount of \$300,² made payable to the State of California in the envelope provided postmarked no later than **November 7, 2011**.

Please note that the administrative penalty increases for every additional effort required by staff to resolve this matter. If your signed Stipulation, Form 700 and cashier's check is not received by November 7, 2011, your fine will be increased to \$500 and will continue to increase until compliance is met. If you have any questions, please call me directly at (916) 322-8194.

Sincerely,



Jeanette E. Turvill
Political Reform Consultant
Enforcement Division

JET/jt
Enclosures

² \$200 represents the administrative penalty assessed by the Enforcement Division. \$100 represents the late filing fine assessed by the Technical Assistance Division as your filing officer.

**FAIR POLITICAL PRACTICES COMMISSION
STIPULATION, DECISION AND ORDER
STATEMENT OF ECONOMIC INTERESTS VIOLATION
(Streamlined Program)**

Complainant, the Fair Political Practices Commission and Respondent hereby agree that this stipulation will be presented to the Commission at its next regularly scheduled meeting, or as soon thereafter as the matter can be heard, as a final disposition of the Statement of Economic Interests filing violation(s) described herein.

Respondent: Jonathon Leone	FPPC No. 11/932
-----------------------------------	------------------------

Position: Councilmember

Jurisdiction: City of Sausalito
--

GOVERNMENT CODE SECTION(S) VIOLATED: 87300 87202 87203 87204

DESCRIPTION OF VIOLATION: Failure to timely file statement(s) of economic interests

Statement	Reporting Period	Due Date
Annual	January 1, 2010 through December 31, 2010	April 1, 2011

All statements listed above have now been filed in conjunction with reaching this settlement.

MONETARY PENALTY: \$200 (And \$100 Fine Assessed by Filing Officer)	NUMBER OF COUNTS: 1
--	----------------------------

STATEMENT BY RESPONDENT:

I acknowledge that the violation(s) of the Political Reform Act described above have occurred and voluntarily request that the Fair Political Practices Commission resolve this matter by imposition of the monetary penalty specified above. I acknowledge receipt of the *Statement of Respondent's Rights* on the reverse side of this form and voluntarily waive any and all procedural rights to contest this matter in an administrative hearing. I have attached a cashier's check or money order made payable to the General Fund of the State of California in the amount of the penalty described above.

Dated: _____ X _____
JONATHON LEONE

STATEMENT BY ENFORCEMENT CHIEF:

I have reviewed the above Stipulation and recommend its approval.

Dated: _____
GARY S. WINUK, EXECUTIVE DIRECTOR

ORDER OF THE COMMISSION:

The foregoing Stipulation has been adopted by a majority vote of the Fair Political Practices Commission as its final decision and order and is effective upon execution below by the Commission Chair.

IT IS SO ORDERED.

Dated: _____
ANN RAVEL, CHAIR

EXHIBIT A-5

**DEFAULT DECISION AND ORDER
FPPC NO. 11/932**



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

**Settlement Communication Made Pursuant to
Evidence Code Section 1152 and 1154**

November 9, 2011

Mr. Jonathan Leone
1001 Bridgeway, Suite 648
Sausalito, CA 94965

Re: FPPC File No. 11/932; Jonathan Leone

Dear Mr. Leone:

On October 17, 2011, we notified you that due to your failure to file your 2010 Annual Statement of Economic Interests by April 1, 2011, the Enforcement Division of the Fair Political Practices Commission was prepared to commence an enforcement action against you. In that letter, you were encouraged to participate in the Enforcement Division's streamlined statement of economic interests enforcement program wherein you would complete your 2010 Annual Statement of Economic Interests, sign a Stipulation, Decision and Order, and pay an administrative penalty of \$200, along with the filing officer's late filing fee of \$100 (copy of letter enclosed).

In that letter you were advised that if you failed to meet the November 7, 2011 deadline, the administrative penalty would increase and continue to increase until compliance was met.

By failing to return the Stipulation, cashier's checks and completed Statement by the November 7, 2011 deadline, the penalty assessed for your non-compliance has been increased to \$400. Should the Enforcement Division be forced to commence an enforcement action against you, it may obtain an order that you pay a monetary penalty to the State of California of up to \$5,000.

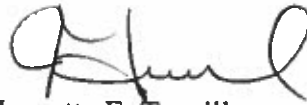
Before commencing that enforcement action, you are further encouraged to participate in the Enforcement Division's streamlined statement of economic interests enforcement program. To take advantage of this offer you must:

- 1) Complete the enclosed Form 700 and any appropriate schedules;

- 2) Return the Form 700, along with the signed and dated Stipulation, Decision and Order; and
- 3) Include two cashier's checks or money orders (not personal checks) one in the amount of \$400, and one in the amount of \$100,¹ made payable to the State of California in the envelope provided postmarked no later than **November 30, 2011**.

Please note that failure to comply with this request will remove this matter from the streamlined program and we will initiate the enforcement action. If you have any questions, please call me directly at (916) 322-8194.

Sincerely,



Jeanette E. Turvill
Political Reform Consultant
Enforcement Division

JET/jt
Enclosures

¹ \$400 represents the administrative penalty assessed by the Enforcement Division; \$100 represents the late filing fine assessed by your filing officer.

**FAIR POLITICAL PRACTICES COMMISSION
STIPULATION, DECISION AND ORDER
Statement of Economic Interest Violations
(Streamlined Program)**

Complainant, the Fair Political Practices Commission, and Respondent(s) hereby agree that this stipulation will be presented to the Commission at its next regularly scheduled meeting, or as soon thereafter as the matter can be heard, as a final disposition of the reporting violation(s) described herein.

FPPC CASE NO. 11/932
RESPONDENT: Jonathan Leone
POSITION: Councilmember
JURISDICTION: City of Sausalito County of _____ Multi-County State
GOVERNMENT CODE SECTION VIOLATED: 87202 87203 87300
DESCRIPTION OF VIOLATION: Failure to timely file statement(s) of economic interests

Count	Type of Statement	Reporting Period(s)	Date Due
1	Annual	January 1, 2010 through December 31, 2010	April 1, 2011

MONETARY PENALTY: \$400 **NUMBER OF COUNTS:** 1
 (And \$100 Fine Assessed by Filing Officer)

STATEMENT BY RESPONDENT(S):

I acknowledge that the violation(s) of the Political Reform Act described above have occurred and voluntarily request that the Fair Political Practices Commission resolve this matter by imposition of the monetary penalty specified above. I acknowledge receipt of the *Statement of Respondent's Rights* and voluntarily waive any and all procedural rights to contest this matter in an administrative hearing. All outstanding reports, in connection with these violations, have now been filed. I have attached a **cashier's check or money order** made payable to the General Fund of the State of California in the amount of the penalty described above.

Dated: _____ X

Printed Name: JONATHAN LEONE

STATEMENT BY ENFORCEMENT CHIEF:

I have reviewed the above stipulation and recommend its approval.

Dated: _____

GARY S. WINUK, ENFORCEMENT CHIEF

ORDER OF THE COMMISSION:

The foregoing stipulation has been adopted by a majority vote of the Fair Political Practices Commission as its final decision and order and is effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: _____

ANN RAVEL, CHAIR

EXHIBIT A-6

**DEFAULT DECISION AND ORDER
FPPC NO. 11/932**

FAIR POLITICAL PRACTICES COMMISSION

CASE CHRONOLOGY

CASE NUMBER: 11/932

NAME: Jonathon Leone

DATE

ACTIVITY

Page 1 of 1

- 12/1/11 Left phone message for Jonathan Leone (415) 297-4356 – asked for a return call re: letters re: delinquent 700 forms. Also sent him an email at the city’s email address. (attached).
- 12/7/11 Jonathan Leone left a message on my voicemail that he received my telephone call and will “take care of his filing and fine by ^{next} week – he has a lot going on in his life but realizes that’s no excuse...” etc.
- 1/4/12 Sent another email to Jonathan Leone advising he indicated he would be taking care of the 700 form and fine, but has yet to do so. Told him he must file by 1/11/12 or fine would creep closer to the \$1,000 level.

Jeanette Turvill

From: Jeanette Turvill
Sent: Thursday, December 01, 2011 2:45 PM
To: 'jleone@ci.sausalito.ca.us'
Subject: Your Form 700 - Statement of Economic Interests

I sent two letters to you, one of October 17 and another on November 9 concerning your failure to file your 2010 Annual Statement of Economic Interests. Did you intend to respond?

Jeanette Turvill
Fair Political Practices Commission
Enforcement Division
(916) 322-8194

Confidentiality Notice: This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any review, use, disclosure, or distribution not authorized by the intended recipient(s) is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

Jeanette Turvill

From: Jeanette Turvill
Sent: Wednesday, January 04, 2012 2:56 PM
To: 'jleone@ci.sausalito.ca.us'
Subject: Failure to File Form 700

In our telephone conversation on December 7, you indicated you would be taking care of your Form 700, the Stip., and the fine assessed against you by the end of the following week. Those documents were not received. It is imperative that you comply by Wed., January 11. On that date, I will have to refer this matter to a staff attorney and the fine starts creeping closer to the \$1,000 level. You really want to avoid that. Please send these documents back to me by January 11th.

Jeanette Turvill
Fair Political Practices Commission
Enforcement Division
(916) 322-8194

Confidentiality Notice: This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any review, use, disclosure, or distribution not authorized by the intended recipient(s) is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

EXHIBIT A-7

DEFAULT DECISION AND ORDER
FPPC NO. 11/932



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

July 6, 2012

Jonathon Leone
City Council Member
City of Sausalito
1001 Bridgeway Suite 648
Sausalito, California 94965

Re: Statement of Economic Interests – Form 700
Type of Statement: **2011 Annual**
Date Statement Due: **April 2, 2012**

Dear Mr. Leone:

The Fair Political Practices Commission has not received your Statement of Economic Interests, Form 700, which was due on the date indicated above.

To comply with your filing requirements, please take the following steps:

1. Complete the enclosed Form 700 and return it to the **Fair Political Practices Commission at 428 J Street, Suite 620, Sacramento, CA 95814.**
2. If you wish to request a waiver of the late filing penalty, please review the enclosed Guidelines for Waiving Late Fines and submit your written request along with your filing. Enclosed is a waiver request form for your convenience. If we do not receive your waiver request along with your filing you will be required to pay the full \$100 fine.
3. If you feel you do not qualify for a waiver, send a \$100 check or money order payable to the State of California along with your filing, to the above address.

If we do not receive a response from you within 15 days from the date of this letter, this matter will be referred to our Enforcement Division. Please be advised that in addition to the late filing penalties imposed by Section 91013, Government Code Section 83116 provides that a fine of up to \$5,000 per violation may be imposed. Payment of the late fine under Section 91013 does not preclude further enforcement action, including the imposition of the additional fine under Section 83116.

A copy of your statement will be forwarded to your filing official. We are here to assist you. If you have any questions, please call me at (916) 327-2756.

Sincerely,

A handwritten signature in cursive script that reads "Theresa Poon".

Theresa Poon
Staff Services Analyst
Technical Assistance Division

Enclosures: Waiver Guidelines/Request Form
cc: Debbie Pagliaro ✓

EXHIBIT A-8

DEFAULT DECISION AND ORDER
FPPC NO. 11/932



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

August 23, 2012

DATED MATERIAL!

Jonathon Leone
City Council Member
City of Sausalito
1001 Bridgeway Suite 648
Sausalito, California 94965

Re: Statement of Economic Interests – Form 700
Type of Statement: **2011 Annual**

Dear Mr. Leone:

According to our records, on July 6, 2012, you were notified that the Fair Political Practices Commission had not received your Statement of Economic Interests - Form 700, which was due on April 2, 2012. We advised you to file your statement in order to avoid referral to our Enforcement Division. However, to date we have not received your statement; therefore an Enforcement referral is being made.

Mail your completed Form 700 and a \$100 check or money order to the Fair Political Practices Commission, 428 J Street, Ste. 620, Sacramento, CA 95814. The check or money order should be payable to the State of California.

Untimely filing of statements of economic interests deprives the public of information related to your governmental duties and is a breach of an express purpose of the Political Reform Act to ensure that assets and income of public officials are promptly disclosed.

Please be advised that in addition to the late filing penalties imposed by Section 91013, Government Code Section 83116 provides that a fine of up to \$5,000 per violation may be imposed. Payment of the late filing fine under Section 91013 does not preclude further enforcement action, including the imposition of the additional fine under Section 83116.

If you have any questions, please call me at (916) 327-2756.

Sincerely,

A handwritten signature in black ink that appears to read "T. Poon".

Theresa Poon
Staff Services Analyst
Technical Assistance Division

cc: Debbie Pagliaro ✓

415-297-4356 called with a message to call me July 9/26/12.

EXHIBIT A-9

DEFAULT DECISION AND ORDER
FPPC NO. 11/932

11/932

FPPC Statement of Economic Interests Unit
Form 700 Non-Filer Enforcement Referral
(Staff Use Only)

I. NON-FILER INFORMATION

Name: Jonathon Leone
Position: City Council Member
Agency: City of Sausalito
Address: 1001 Bridgeway, Ste. 648, Sausalito, CA 94965
Telephone (Work): 415-297-4356

II. FPPC STAFF AND FILING OFFICIAL INFORMATION

FPPC Staff: Theresa Poon
Filing Official: Debbie Pagliaro
Address: 420 Litho Street, Sausalito, CA 94965
Telephone: 415-289-4165 Fax: 415-289-4175 E-mail: dpagliaro@sausalito.ca.us

III. STATEMENT INFORMATION

Type of Non-Filed Statement:
Assuming 11 Annual
Prior Filing History:
Date Assumed Office: 06 / 28 / 00
No. of Prior Filings: 11
No. of Prior Late Filings: 6

IV. NOTIFICATIONS: Attach copies of letters, phone logs, e-mails or other documentation.

FPPC Notifications
Date: 08 / 23 / 12
Filing Official Notifications
Date: ___ / ___ / ___

Comments:
Left a message for Mr. Leone on 9/26/12; have not received 2011 annual statement. Mr. Leone also referred to Enforcement for 2010 annual statement.

Supervisor's Signature: [Handwritten Signature]
Date: 11/13/12

RECEIVED
FAIR POLITICAL
PRACTICES COMMISSION
NOV 16 PM 2:33

EXHIBIT A-10

DEFAULT DECISION AND ORDER
FPPC NO. 11/932



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

October 19, 2012

Mr. Jonathan Leone
1001 Bridgeway, Suite 648
Sausalito, CA 94965

Re: In the Matter of Jonathan Leone
FPPC No. 11/932

Dear Mr. Leone:

The Enforcement Division of the Fair Political Practices Commission (the "Commission") is proceeding with an enforcement action against you for the failure to comply with the disclosure provisions of the Political Reform Act (the "Act").¹ Based on our investigation, it is our determination that you failed to file a 2010 Annual Statement of Economic Interests ("SEI") with the City of Sausalito City Clerk in accordance with your position as a member of the City of Sausalito City Council ("City Council"), in violation of Government Code Section 87203.

A. Service of the Probable Cause Report

Having determined that you committed this violation of the Act, the Enforcement Division is authorized to bring this enforcement action against you, and may obtain an order that you pay a monetary penalty to the State of California of up to \$5,000 per violation. At this time, we are instituting an enforcement action against you by serving you with a Probable Cause Report, a copy of which is enclosed. This report details your violation and asks the General Counsel of this agency to find that probable cause exists to file an accusation against you with the Office of Administrative Hearings.

You have the right to submit a written response to the probable cause report prior to the time the General Counsel determines whether probable cause exists. That response may contain a summary of evidence, legal arguments, and any mitigating or exculpatory information either of you may wish to bring to the attention of the General Counsel. *If you wish to submit a written*

¹ The Political Reform 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 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.

response, it must be filed with the General Counsel no later than 21 days following the date you were served with the report.

You also have the right to request that a probable cause conference be held before the General Counsel makes any determination as to probable cause. At the conference, you are entitled to be present and to be represented by counsel. If you decide to proceed with a probable cause conference, one will be reserved for you at the Commission's offices upon your request. *In order to obtain a probable cause conference, you must make a written request for one, directed to my attention, no later than 21 days following the date you were served with the report.*

I have enclosed a memorandum that describes the probable cause procedure in some detail, along with copies of the most pertinent regulations.

B. Settlement Option

Although we are proceeding with an administrative action at this time, the Commission favors negotiated dispositions whenever feasible, so it is the practice of the Enforcement Division to give you an opportunity to reach an early resolution of the matter through a stipulated agreement. Therefore, if you are interested in reaching a settlement in this matter or have any questions regarding this settlement offer or the probable cause procedures, please contact me at (916) 322-8029.

Sincerely,



Gary S. Winuk
Chief of Enforcement
Enforcement Division

Enclosures

1 GARY S. WINUK
2 Chief of Enforcement
3 FAIR POLITICAL PRACTICES COMMISSION
4 428 J Street, Suite 620
5 Sacramento, CA 95814
6 Telephone: (916) 322-5660

7 Attorney for Complainant

8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10 In the Matter of

11 JONATHAN LEONE,

12 Respondent.

FPPC No. 11/932

REPORT IN SUPPORT
OF A FINDING OF
PROBABLE CAUSE

Hearing Date: TBA
Hearing Time: TBA
Hearing Location: Commission Offices
428 J Street, Suite 800
Sacramento, CA 95814

13 INTRODUCTION

14 Respondent Jonathan Leone ("Respondent") has been a Councilmember for the City of
15 Sausalito, California since his election on November 7, 2006. As a City Councilmember, Respondent
16 holds an office specified in Section 87200 of the Political Reform Act (the "Act").¹

17 Section 87203 of the Act requires every person holding an office specified in Section 87200 to
18 file an Annual Statement of Economic Interests ("SEI") disclosing the person's investments, interests in
19 real property, and income during the preceding calendar year.

20 This Report in Support of a Finding of Probable Cause alleges that Respondent violated the Act
21 as follows:

22
23
24
25
26
27 ¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to
28 the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices 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.

1 COUNT 1: As a member of the City Council of the City of Sausalito, California, an office
2 specified in Section 87200, Respondent Jonathan Leone had a duty to file an Annual SEI for the
3 period covering January 1, 2010 through December 31, 2010 by April 1, 2011. By failing to file
4 an SEI with the City of Sausalito City Clerk by April 1, 2011, Respondent violated Government
5 Code section 87203.

6
7 COUNT 2: As a member of the City Council of the City of Sausalito, California, an office
8 specified in Section 87200, Respondent Jonathan Leone had a duty to file an Annual SEI for the
9 period covering January 1, 2011 through December 31, 2011 by April 1, 2012. By failing to file
10 an SEI with the City of Sausalito City Clerk by April 1, 2012, Respondent violated Government
11 Code section 87203.

12 13 **SUMMARY OF THE LAW**

14 **A. Jurisdiction**

15 Section 83116 provides the Fair Political Practices Commission (the "Commission") with
16 administrative jurisdiction to enforce the provisions of the Act. Prior to an enforcement action being
17 undertaken, the Executive Director, the General Counsel, or an attorney from the Legal Division of the
18 Commission must make a finding that there is probable cause to believe that the Act has been violated.
19 After a finding of probable cause, the Commission may then hold a hearing to determine what violations
20 have occurred, and levy an administrative penalty of up to \$5,000 for each violation.

21 **B. Standard for Finding Probable Cause**

22 A probable cause determination is governed by Sections 83115.5 and 83116, and Regulation
23 18361.4, subdivision (d). For the General Counsel to make a finding of probable cause, it is only
24 necessary that he or she be presented with sufficient evidence to lead a person of ordinary caution and
25 prudence to believe, or entertain a strong suspicion, that a respondent committed or caused a violation.
26 (Section 83115.5, and Regulation 18361.4, subd. (e).)

1 C. Statements of Economic Interests

2 An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that
3 the assets and income of public officials, which may be materially affected by their official actions, be
4 disclosed, so that conflicts of interest may be avoided. In furtherance of this purpose, Section 87203
5 requires every person holding an office specified in Section 87200, including members of city councils
6 to file an Annual SEI disclosing his investments, his interests in real property, and his income during
7 the period since the previous statement filed under Section 87203.

8 Regulation 18723, subdivision (a) and (b)(2) provide that each person who holds an office
9 specified in section 87200, including members of a city council, shall file an SEI each year by April
10 1st of the following year.

11 **SUMMARY OF THE EVIDENCE**

12 This matter arose out of a referral from the Commission's Technical Assistance Division (the
13 "Technical Assistance Division") for Respondent's failure to file his 2010 Annual SEI. Respondent has
14 been a councilmember with the City of Sausalito, California since December 5, 2006. Section 87203
15 requires every person holding an office specified in Section 87200 to file an Annual SEI by April 1st of
16 the following year. Section 87200 lists members of a city council as among those required to file an
17 Annual SEI. Therefore, Respondent was required to file his 2010 SEI by April 1, 2011.

18 On or about July 13, 2011, the Technical Assistance Division sent Respondent a letter informing
19 Respondent that he had failed to file his 2010 Annual SEI by the April 1, 2011 deadline. The letter
20 advised Respondent that if the Commission did not receive a response within 15 days, the matter would
21 be referred to the Commission's Enforcement Division (the "Enforcement Division").

22 On or about August 30, 2011, the Technical Assistance Division sent Respondent a letter
23 advising Respondent that to date, the Technical Assistance Division had not received the delinquent
24 statement and that the matter would be referred to the Enforcement Division.

25 On or about October 6, 2011, the Enforcement Division received a referral from the Technical
26 Assistance Division for Respondent's failure to file his 2010 Annual SEI.

27 On or about October 17, 2011, the Enforcement Division sent a letter to Respondent regarding
28 Respondent's failure to file his 2010 Annual SEI and encouraged Respondent to participate in the

1 Enforcement Division's streamlined SEI enforcement program. Respondent was advised that if
2 Respondent participated in the streamlined program, the Commission could significantly reduce the
3 penalty if Respondent complied with filing his 2010 SEI and stipulated to a reduced Administrative
4 penalty of \$200, as well as a \$100 late filing fine within 21 days. Respondent was advised of the specific
5 steps necessary to take advantage of the offer and to submit a cashier's check in the amount of \$300 no
6 later than November 7, 2011. Respondent failed to return any stipulation, cashier's checks and
7 completed SEI by November 7, 2011.

8 On or about November 9, 2011, the Enforcement Division sent a letter to Respondent advising
9 Respondent that the penalty assessed for his non-compliance had been increased to \$400 and
10 encouraging Respondent to participate in the Enforcement Division's streamlined SEI enforcement
11 program. Respondent was advised that failure to comply with the request by November 30, 2011 would
12 remove this matter from the streamlined program and would initiate an enforcement action.
13 Respondent failed to comply with the request by November 30, 2011.

14 On or about December 1, 2011, Jeanette Turvill from the Enforcement Division called
15 Respondent and left a phone message asking Respondent to return her phone call regarding
16 Respondent's delinquent SEI. Jeanette Turvill also sent an e-mail to Respondent's city e-mail address
17 advising Respondent about the previous communications from the Enforcement Division and his failure
18 to file his 2010 Annual SEI.

19 On or about December 7, 2011, Respondent left a message on Jeanette Turvill's voicemail
20 indicating that he had received Jeanette Turvill's telephone call and that he was going to file his
21 delinquent SEI, the required stipulation, and the fine assessed against Respondent by the end of the
22 following week. Respondent failed to file the required documents.

23 On or about January 4, 2012, Jeanette Turvill sent an e-mail to Respondent's city e-mail address
24 advising respondent that, to date, the Commission had not received the delinquent statement and
25 required documents. Respondent was advised that if he did not comply by January 11, 2012, the matter
26 would be referred to a staff attorney and the fines would significantly increase. To date, Respondent has
27 not filed the delinquent statement with the Commission.

28

1 On or about September 7, 2012, Catherine Bonanno, a law clerk from the Enforcement Division,
2 spoke with Debbie Pagliaro in the Sausalito City Clerk's Office. Ms. Pagliaro stated that, as of
3 September 7, 2012, Respondent had not filed his 2010 or 2011 Annual SEI.

4 Respondent has been a councilmember with the City of Sausalito, California since December 5,
5 2006. Section 87203 requires every person holding an office specified in Section 87200 to file an
6 Annual SEI by April 1st of the following year. Section 87200 lists members of a city council as among
7 those required to file an Annual SEI. Therefore, Respondent was required to file his 2011 SEI by April
8 1, 2012. Respondent had not yet filed his 2011 SEI statement, as of September 7, 2012.

9
10 **COUNT 1**

11 **Failure to File a 2010 Annual Statement of Economic Interests**

12 As a member of the City Council of the City of Sausalito, California, an office specified
13 in Section 87200, Respondent Jonathan Leone had a duty to file an Annual SEI for the period
14 covering January 1, 2010 through December 31, 2010 by April 1, 2011. By failing to file an SEI
15 with the City of Sausalito City Clerk by April 1, 2011, Respondent violated Government
16 section 87203.

17 **COUNT 2**

18 **Failure to File a 2011 Annual Statement of Economic Interests**

19 As a member of the City Council of the City of Sausalito, California, an office
20 specified in Section 87200, Respondent Jonathan Leone had a duty to file an Annual SEI for the
21 period covering January 1, 2011 through December 31, 2011 by April 1, 2012. By failing to file
22 an SEI with the City of Sausalito City Clerk by April 1, 2012, Respondent violated Government
23 Code section 87203.

24
25 **AGGRAVATING FACTORS**

26 Respondent has a prior enforcement action for violating Section 87300 of the Act for failure to
27 file his 2008 Annual SEI. A Warning Letter was issued on April 11, 2011, FPPC No. 09/647.
28

1 **MITIGATING FACTORS**


2 Not applicable.

3 **CONCLUSION**

4 Probable cause exists to believe that Respondent Jonathan Leone committed violations of
5 the Act, as set forth above. An Accusation should therefore be issued in accordance with the
6 procedures described in Regulation 18361.4, subdivision (e), charging Respondent Jonathan
7 Leone with violating the Act.
8

9 Dated: October 19, 2012

10 Respectfully submitted,

11 
12 Gary S. Winuk
13 Chief, Enforcement Division



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

MEMORANDUM RE: PROBABLE CAUSE PROCEEDINGS

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 issue. (Govt. Code §§ 83115.5, 83116.)

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.¹

The Commission has promulgated regulations further defining the probable cause procedure and delegating to the Executive Director 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 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 Executive Director and the Enforcement Division staff to consider whether or not probable cause exists to believe the Act was violated.

THE PROCEDURE

A. Probable Cause Report

Administrative enforcement proceedings are commenced with the service, by 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

¹ 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.)

knowledge and any other relevant material and arguments. It is filed with the Executive Director.

B. Response to Probable Cause Report

Within 21 days of the service of the probable cause report, you may:

1. File a written response, and request a probable cause conference;
2. File a written response, and submit the matter for a probable cause determination on the written materials alone; or
3. Waive the probable cause conference entirely, and proceed to settlement or the issuance of an accusation.

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).) The response should be filed with the Executive Director, and a copy served upon the attorney for the Enforcement Division.

C. Staff Reply

The regulation permits the staff to submit a reply to any defense response within 10 days of the filing of the response. The staff will summarize evidence and arguments in a written rebuttal whenever possible. You will be served with a copy of any such reply.

D. 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, in the discretion of the Executive Director, witnesses.

The Executive Director or his/her designee is the presiding officer of the probable cause conference. The presiding 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 Executive Director 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 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 Executive Director 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.

E. Probable Cause Order and Accusation

Once the matter is submitted to the Executive Director, the probable cause decision will normally be made within ten days. If the Executive Director finds probable cause, the Executive Director 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.

F. 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 Executive Director after a showing of good cause. Settlement negotiations will be considered good cause only if the Executive Director is presented with a fully executed settlement, or is convinced that settlement is imminent.

G. 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 Executive Director will not directly participate in the negotiations, but will be represented by Enforcement Division attorneys. Staff attorneys will present settlement offers to the Executive Director 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

§ 8311. Mailing by certified mail

Wherever any notice or other communication is required by any law to be mailed by registered mail to or by the state, or any officer or agency thereof, the mailing of such notice or other communication by certified mail shall be deemed to be a sufficient compliance with the requirements of such law.

§ 83115.5. Prohibited finding of probable cause by commission unless alleged violator notified of violation; Manner of giving notice

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. Violations; Hearings; Cease and desist orders

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**

§ 18361.1. Administrative Subpoenas.

The staff, under the direction of the Executive Director, shall seek to assure voluntary compliance with the Political Reform Act and shall investigate possible violations of the Act. The staff shall make reasonable efforts to obtain information on a voluntary basis prior to the issuance of an administrative subpoena. The Executive Director, in the exercise of his or her discretion, may forego this procedure with respect to an investigation in progress. The staff shall periodically report to the members of the Commission on the status of all investigations, including the reasons for the issuance of any administrative subpoena without first making reasonable efforts to obtain the information voluntarily. Failure to report to the Commission concerning the issuance of subpoenas shall not affect the validity of any administrative subpoena.

§ 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.

§ 18361.3. Referral of Questions of Law to the Commission

If the Executive Director or any Commissioner believes that an enforcement decision should not be made until a question of law involving an interpretation of the Political Reform Act is resolved, the Executive Director or any Commissioner may submit the question to the entire Commission. The Commission shall consider the question in general terms at a regular public session. Prior to resolving the question of law, the Commission or the Executive Director may request the staff or any other interested party to submit a legal analysis of the question of law.

§ 18361.4. Probable Cause Proceedings

(a) **Probable Cause Report.** If the Chief of the Enforcement Division decides to commence probable cause proceedings pursuant to Government Code 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) At least 21 days prior to any determination of probable cause, the Enforcement Division staff shall provide the following, by service of process or registered 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 2 Cal. Code of Regulations Section 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 2 Cal. Code of Regulations Section 18361.2.

(c) **Response to Probable Cause Report.** 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 Executive Director 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. 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 days following the date the response was filed with the Executive Director. The Executive Director may extend the time limitations in this section for good cause. At any time prior to a determination of probable cause, the Executive Director 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 Executive Director and all other proposed respondents not later than 21 days after service of the probable cause report unless the Executive Director extends the time for good cause. The Executive Director shall fix a time for the probable cause conference and 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 Executive Director may allow witnesses to attend and participate in part or all of the probable cause conference. In making this determination, the Executive Director 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 Executive Director 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 Executive Director 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 Executive Director 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 Executive Director 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 Executive Director does not constitute a finding that a violation has actually occurred. The Executive Director 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 Executive Director makes a finding of probable cause, he or she shall prepare an Accusation pursuant to Government Code Section 11503 and have it served upon the person or persons who are subjects of the probable cause finding. The Executive Director 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 Government Code Section 83116.

§ 18361.5. Administrative Hearings

(a) Administrative Hearing Brief. Not later than one week prior to a contested administrative hearing that is to be heard by the Commission itself, the Executive Director shall and any respondent may submit to the Commission a written brief describing the evidence to be presented at the hearing and outlining significant legal arguments expected to be raised. Prior

to the contested hearing, when a brief is submitted by any party pursuant to this section, a copy shall be provided to all other parties to the administrative action.

(b) Preliminary Matters and Hearing on Merits. If the Executive Director determines that a hearing on the merits should be conducted before an administrative law judge alone pursuant to Government Code section 11512(a), he or she shall provide a copy of the accusation as well as a memorandum describing the issues involved to each member of the Commission. If, at the next regularly scheduled meeting, two or more Commissioners indicate a desire to participate in the hearing, the matter will be scheduled for a hearing before the Commission when an administrative law judge is available. When the Commission decides to participate in a hearing on the merits, the Chairman of the Commission may decide that any or all motions as to procedural matters, validity or interpretation of the Political Reform Act, disqualification of any member of the Commission, or any other matters not related to the truth or falsity of the factual allegations in the accusation shall be heard by an administrative law judge alone prior to the hearing on the merits. Any such motions or matters shall be noticed in a timely fashion. Any person requesting reconsideration by the Commission of any decision of the administrative law judge shall submit, at least 14 days prior to the hearing on the merits, a written request for reconsideration setting forth the reasons for the request and including any appropriate points and authorities or affidavits.

(c) Standard of Proof. When an administrative hearing is conducted under Government Code section 83116, findings shall be made on a preponderance of the evidence and it shall require the concurrence of at least three members of the Commission to find a violation or impose any order.

(d) Factors to be Considered by the Commission. In framing a proposed order following a finding of a violation pursuant to Government Code section 83116, the Commission and the administrative law judge shall consider all the surrounding circumstances including but not limited to:

- (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 government agency in a manner not constituting a 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.

(e) Stipulated Orders. At any time before or during an administrative hearing and in lieu of such a hearing, the Executive Director and the person who is the subject of the investigation may stipulate to the entry of an order. The order must be approved by the Commission, which may consider the matter in executive session. The stipulated order shall set forth the pertinent facts and may include an agreement as to anything that could be ordered by the Commission under Government Code section 83116. The stipulated order shall be released publicly and shall have the force of an order of the Commission.

§ 18361.6. Probable Cause Presentation by Civil or Criminal Prosecutor

The Executive Director may permit any civil or criminal prosecutor, within the meaning of Government Code sections 91001 and 91001.5, to present a case for determination of probable cause under the procedures of regulation 18361.4 and to present such a case to the Commission at an administrative hearing if probable cause is found. When the Executive Director authorizes such a presentation, he or she may require that the prosecutor prepare the probable cause report described in subdivision (a) of regulation 18361.4 and present the case at any probable cause conference or administrative hearing that is held.

§ 18361.7. Executive Director Subpoena Authority

Notwithstanding 2 Cal. Code Regs. Section 18319: The Executive Director has the authority to issue a subpoena on behalf of the Commission pursuant to Government Code sections 83118 and 11510. The Executive Director may authorize the issuance of a subpoena duces tecum if he or she finds, based on information submitted to him or her in writing, that the information requested in the subpoena is material to a specific matter under investigation, and the Executive Director reasonably believes the person or entity has the desired information under its control.

§ 18361.8. Inapplicability of Regulations 18361.1 Through 18361.8 to Other Enforcement Procedures

None of the procedures described in regulations 18361.1 through 18361.8 and none of the provisions of Government Code sections 83115.5 and 83116 need be followed in connection with the disposition of any enforcement matter other than by way of an administrative hearing conducted pursuant to Government Code section 83116.

§ 18362. Access to Complaint Files

(a) Access to complaints, responses thereto, and investigative files and information shall be granted in accordance with the requirements of the Public Records Act (Government Code Section 6250, et seq.).

(b) When release of material is requested pursuant to subdivision (a), the Executive Director, or his or her designee, shall review the material prior to its release or prior to a claim of exemption to determine that the requirements of the Public Records Act have been satisfied.

(c) Any person requesting copies of material pursuant to subdivision (a) shall reimburse the Commission \$0.10 per page for each page copied or supply copying equipment and make copies in the offices of the Commission. Documents may not be removed from the offices of the Commission. If the request is for copies totaling ten pages or less, the copies shall be provided without charge for copying since the administrative costs do not warrant collection of \$1.00 or less. If the request is for copies totaling more than ten pages, reimbursements of copying costs shall include the cost for the first ten pages. Charges imposed pursuant to this subdivision are for the purpose of recovering the cost of copying.

(d) Requests for access and copies pursuant to subdivision (a) shall be made in writing and shall specifically identify the documents sought.

EXHIBIT A-11

DEFAULT DECISION AND ORDER
FPPC NO. 11/932

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- 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:

Mr. Jonathan Leone
 1001 Bridgeway, Suite 648
 Sausalito, CA 94965

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
 R. C. INTERV 10/21/12

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

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
 (Transfer from service label)

7010 0780 0001 2658 9422

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE



First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED
 FAIR POLITICAL
 PRACTICES COMMISSION

Fair Political Practices Commission
 Enforcement Division
 28 J Street
 Sacramento, CA 95814

12 NOV - 2 AM





Search USPS.com or Track Packages

Quick Tools

Ship a Package

Send Mail

Manage Your Mail

Shop

Business Solutions

Track & Confirm

You entered: 70100780000126589422

Status: Delivered

Your item was delivered at 8:25 am on October 31, 2012 in SAUSALITO, CA 94965. Additional information for this item is stored in files offline.

You may request that the additional information be retrieved from the archives, and that we send you an e-mail when this retrieval is complete. Requests to retrieve additional information are generally processed momentarily.

I would like to receive notification on this request

Restore

Find Another Item

What's your label (or receipt) number?

Find

LEGAL

- Privacy Policy ›
- Terms of Use ›
- FOIA ›
- No FEAR Act EEO Data ›

ON USPS.COM

- Government Services ›
- Buy Stamps & Shop ›
- Print a Label with Postage ›
- Customer Service ›
- Site Index ›

ON ABOUT.USPS.COM

- About USPS Home ›
- New room ›
- Mail Service Updates ›
- Forms & Publications ›
- Careers ›

OTHER USPS SITES

- Business Customer Gateway ›
- Postal Inspectors ›
- Inspector General ›
- Postal Explorer ›

EXHIBIT A-12

DEFAULT DECISION AND ORDER
FPPC NO. 11/932

1 GARY S. WINUK
Chief of Enforcement
2 FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
3 Sacramento, CA 95814
Telephone: (916) 322-5660
4 Facsimile: (916) 322-1932

5 Attorney for Complainant

6
7 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

8 STATE OF CALIFORNIA

9
10 In the Matter of

) FPPC No. 11/0932

11 JONATHAN LEONE,

)
)
) EX PARTE REQUEST FOR A FINDING OF
) PROBABLE CAUSE AND AN ORDER
) THAT AN ACCUSATION BE PREPARED
) AND SERVED

12
13 Respondent.

) Gov. Code § 83115.5
)
)

14
15
16 TO ZACKERY P. MORAZZINI, GENERAL COUNSEL OF THE FAIR POLITICAL
17 PRACTICES COMMISSION:

18 Pursuant to Section 83115.5 of the Political Reform Act (the "Act")¹ and Regulation 18361.4,
19 Respondent Leone was served with a copy of a Report in Support of a Finding of Probable Cause (the
20 "Report") in the above-entitled matter. The Report (attached as "Exhibit A"), was part of a packet of
21 materials, including a cover letter and a memorandum describing Probable Cause Proceedings, which
22 was sent to Respondent by the Enforcement Division on October 26, 2012, by certified mail, with a
23 return receipt requested. (The proof of service for the Report is attached as "Exhibit B".)

24
25
26 ¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory
27 references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices
28 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.

1 The United States Postal Service delivered the Report and attached materials to Respondent on
2 October 31, 2012. (A copy of the confirmation page is attached as "Exhibit C".) On November 2, 2012,
3 the Enforcement Division received the original return receipt indicating that Respondent received the
4 Report and attached materials. (A copy of the return receipt is attached as "Exhibit D".)

5 In the cover letter and attached materials, Respondent was advised that he could respond in
6 writing to the Report, and orally present his case to the General Counsel at a probable cause conference
7 to be held in Sacramento. Respondent was further advised that in order to have a probable cause
8 conference, he needed to make a written request for one, on or before 21 days of the date he received the
9 Report. Additionally, Respondent was advised that if he did not request a probable cause conference,
10 such a conference would not be held, and probable cause would be determined based solely on the
11 Report and any written response that Respondent submitted within 21 days of the date Respondent was
12 served with the Report. Respondent did not submit a written response, nor did he request a probable
13 cause conference.

14 WHEREFORE, based on the attached Report, the Enforcement Division requests a finding by
15 the General Counsel that probable cause exists to believe that Respondent Leone committed 2 violations
16 of the Act. Additionally, after finding probable cause exists, the Enforcement Division requests an
17 Order by the General Counsel that an Accusation be prepared against Respondent, pursuant to Section
18 11503, and served upon him forthwith.

19
20 Dated: December 28, 2012

Respectfully Submitted,

21 **FAIR POLITICAL PRACTICES COMMISSION**

22 By: Gary S. Winuk
23 Chief of Enforcement

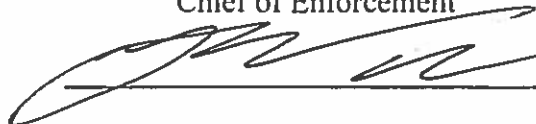
24 

EXHIBIT A-13

**DEFAULT DECISION AND ORDER
FPPC NO. 11/932**

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of

JONATHAN LEONE

Respondent.

) FPPC No. 11/0932

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

) Gov. Code § 83115.5
)
)

By means of an Ex Parte Request for an Order Finding Probable Cause, dated December 28, 2012, the Enforcement Division submitted the above-entitled matter to the General Counsel for a determination of Probable Cause. As set forth in the Ex Parte Request, the Enforcement Division sent a Report in Support of a Finding of Probable Cause (the "Report") to Respondent Leone concerning this matter on October 26, 2012. Service was made by Certified Mail, Return Receipt Requested. Accompanying the Report was a packet of materials that informed Respondent of his right to file a written response to the Report within 21 days following service of the Report, and to request a probable cause conference. During the 21 days that followed service of the Report, Respondent did not file a response to the Report or request a probable cause conference. Pursuant to California Code of Regulations Title 2, Section 18361.4,¹ a determination of probable cause may be made solely on papers submitted when the respondent does not request that a probable cause conference be held.

In making a probable cause determination, it is the duty of the General Counsel of the Fair Political Practices Commission to determine whether probable cause exists for believing that a respondent has violated the Political Reform Act as alleged by the Enforcement Division in the probable cause report served on the respondent.

¹ The Political Reform 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 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.

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
3 that the proposed respondent(s) committed or caused a violation." (Regulation 18361.4,
4 subd. (e).)

5 The Probable Cause Report served on Respondent and the subsequent Ex Parte Request for an
6 Order Finding Probable Cause in this matter allege two violations of the Political Reform Act were
7 committed, as follows:

8 COUNT 1: Respondent Leone failed to timely file a 2010 Annual SEI in violation of Government
9 Code Section 87203.

10 COUNT 2: Respondent Leone failed to timely file a 2011 Annual SEI in violation of Government
11 Code Section 87203.

12 Based on the Ex Parte Request for a Finding of Probable Cause given to me, I find that notice
13 has been given to Respondent Leone, as provided by Government Code Section 83115.5 and Regulation
14 18361.4, subdivision (b). I further find, based on the Report in Support of a Finding of Probable Cause
15 and the Ex Parte Request for a Finding of Probable Cause, that there is probable cause to believe
16 Respondent Leone violated the Political Reform Act as alleged in Counts 1 and 2, as identified above.

17 I therefore direct that the Enforcement Division issue an Accusation against Respondent in
18 accordance with this Finding.

19 IT IS SO ORDERED.

20 Dated: 1-8-13

21 
22 Zackery P. Morazzini
23 General Counsel

EXHIBIT A-14

DEFAULT DECISION AND ORDER
FPPC NO. 11/932

1 GARY S. WINUK
Chief of Enforcement
2 FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
3 Sacramento, CA 95814
Telephone: (916) 322-5660
4 Facsimile: (916) 322-1932

5 Attorney for Complainant

6 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

7 STATE OF CALIFORNIA

8 In the Matter of

9
10 Jonathan Leone,

11
12 Respondent.

) FPPC No. 11/932

) ACCUSATION

) (Gov. Code §11503)

13
14 Complainant Gary S. Winuk, Chief of Enforcement of the Fair Political Practices Commission,
15 after a finding of probable cause made pursuant to Government Code Section 83115.5, hereby alleges
16 the following:

17 **JURISDICTION**

18 1. Complainant is the Chief of Enforcement of the Fair Political Practices Commission, (the
19 "Commission") and makes this Accusation in his official capacity, and in the public interest.

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

1 3. When enacting the Political Reform Act (the “Act”),¹ California voters specifically found
2 and declared, as stated in Sections 81001, subdivision (h), and 81002, subdivision (f), that previous laws
3 regulating political practices had suffered from inadequate enforcement, and it was their purpose to
4 ensure that the Act be vigorously enforced.

5 4. To that end, Section 81003 requires that the Act be liberally construed to achieve its
6 purposes.

7 5. One of the stated purposes of the Act, as set forth in Section 81002, subdivision (a), is to
8 ensure that the contributions and expenditures affecting election campaigns are fully and truthfully
9 disclosed to the public, so that voters may be better informed, and improper practices may be inhibited.

10 6. In furtherance of this purpose, the Act establishes a comprehensive campaign reporting
11 system.

12
13 **RESPONDENT**

14 7. Respondent Jonathan Leone (“Respondent”), was, at all times relevant to this Accusation
15 and continuing, a member of the City Council of the City of Sausalito, California, since his election on
16 November 7, 2006.

17 8. The actions of Respondent – failing to file Statements of Economic Interest (“SEIs”) –
18 are in violation of the law and public policies of the State of California.

19
20 **APPLICABLE LAW**

21 9. All applicable law referenced herein is the law as it existed during the relevant time for
22 the violations alleged in this Accusation, namely January 1, 2010, through December 31, 2011.

23 **A. Definitions**

24
25 _____
26 ¹The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are
27 to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are
to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

1 10. Section 82020, subdivision, defines “elected officer” as “any person who holds an
2 elective office”.

3 **B. Duty to File Statements of Economic Interests**

4 11. Section 87203, requires every person holding an office specified in Section 87200,
5 including members of city councils, to file an Annual SEI disclosing his investments, his interests in real
6 property, and his income during the period since the previous statement filed under Section 87203. The
7 statement shall include any investments and interests in real property held at any time during the period
8 covered by the statement, whether or not they are still held at the time of filing.

9 12. Regulation 18723, subdivision (a) and (b)(2) provides that each person who holds an
10 office specified in Section 87200, including members of a city council, shall file an SEI each year by
11 April 1st of the following year.²

12 **C. Factors to be Considered by the Commission**

13 13. In framing a proposed order following a finding of a violation pursuant to Section 83116,
14 the Commission and the administrative law judge shall consider all the surrounding circumstances
15 including but not limited to: (1) The seriousness of the violation; (2) The presence or absence of any
16 intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or
17 inadvertent; (4) Whether the violator demonstrated good faith by consulting the Commission staff or
18 any other government agency in a manner not constituting a complete defense under Section 83114(b);
19 (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of
20 violations of the Political Reform Act or similar laws; and (6) Whether the violator, upon learning of a
21 reporting violation, voluntarily filed amendments to provide full disclosure. (Regulation 18361.5,
22 subd. (d).)

23
24
25 ² When a deadline to file a statement or report required by the Act falls on a Saturday, Sunday or official
26 state holiday, the filing deadline for such a statement or report shall be extended to the next regular
27 business day (Regulation 18116.) April 1, 2012 was a Sunday. The filing deadline for annual SEI in
28 2011 was Monday, April 2, 2012.

1 **GENERAL FACTS**

2 14. Complainant incorporates paragraphs 1 – 13 of this Accusation, as though completely set
3 forth herein.

4 15. Respondent has been a councilmember with the City of Sausalito, California since
5 December 5, 2006. Section 87203 requires every person holding an office specified in Section 87200 to
6 file an annual SEI by April 1st of the following year. Section 87200 lists members of a city council as
7 among those required to file an Annual SEI.

8 16. As a member of the city council of Sausalito, Respondent was required to file an annual
9 statement of economic interests for the calendar year 2010 by April 1, 2011, and an annual statement of
10 economic interests for the calendar year 2011 by April 2, 2012.

11 17. According to filing records maintained by the Commission’s Technical Assistance
12 Division (“TAD”), Respondent failed to file a 2010 annual statement of economic interests, and failed to
13 file a 2011 annual statement of economic interests.

14 **COUNT 1**

15 **Failure to File a 2010 Annual Statement of Economic Interests**

16 18. Complainant incorporates paragraphs 1 – 17 of this Accusation, as though completely set
17 forth herein.

18 19. As a member of the City Council of Sausalito, California, an office specified in Section
19 87200, Respondent Jonathan Leone had a duty to file an Annual SEI for the period covering January 1,
20 2010 through December 31, 2010 by April 1, 2011.

21 20. By failing to file an SEI with the City of Sausalito City Clerk by April 1, 2011,
22 Respondent violated Government Section 87203.

23 **COUNT 2**

24 **Failure to File a 2011 Annual Statement of Economic Interests**

1 21. Complainant incorporates paragraphs 1 – 20 of this Accusation, as though completely set
2 forth herein.

3 22. As a member of the City Council of Sausalito, California, an office specified in Section
4 87200, Respondent Jonathan Leone had a duty to file an Annual SEI for the period covering January 1,
5 2011 through December 31, 2011 by April 2, 2012.

6 23. By failing to file an SEI with the City of Sausalito City Clerk by April 2, 2012,
7 Respondent violated Government Section 87203.

8
9 **AGGRAVATING FACTORS**

10 24. Complainant incorporates paragraphs 1 – 23 of this Accusation, as though completely set
11 forth herein.

12 25. Respondent has had prior enforcement action for violating Section 87300 of the Act for
13 failure to file his 2008 Annual SEI. A Warning Letter was issued on April 11, 2011, FPPC No. 09/647.

14 26. To date, Respondent has not filed any of the delinquent statements.

15
16 **MITIGATING OR EXCULPATORY FACTORS**

17 27. Complainant incorporates paragraphs 1 – 23 of this Accusation, as though completely set
18 forth herein.

19 28. No mitigating factors have been identified.

20
21 **PRAYER**

22 WHEREFORE, Complainant prays as follows:

23 29. That the Fair Political Practices Commission hold a hearing pursuant to Government
24 Code Section 83116 and Title 2, California Code of Regulations, Section 18361.5, and at such hearing
25 find that Respondent Jonathan Leone violated the Political Reform Act as alleged herein;

1 30. That the Commission, pursuant to Government Code Section 83116, subdivision (c),
2 order Respondent to pay a monetary penalty of at least One Thousand Dollars (\$1000) and not more
3 than Five Thousand Dollars (\$5,000) for the violation of the Political Reform Act alleged herein in
4 **Count 1;**

5 31. That the Commission, pursuant to Government Code Section 83116, subdivision (c),
6 order Respondent to pay a monetary penalty of at least One Thousand Dollars (\$1,000) and not more
7 than Five Thousand Dollars (\$5,000) for the violation of the Political Reform Act alleged herein in
8 **Count 2;**

9 32. That the Commission, pursuant to Title 2, California Code of Regulations,
10 Section 18361.5, subdivision (d), consider the following factors in framing a proposed order following a
11 finding of a violation pursuant to Government Code Section 83116: (1) the seriousness of the violation;
12 (2) the presence or absence of any intention to conceal, deceive or mislead; (3) whether the violation
13 was deliberate, negligent or inadvertent; (4) whether the violator demonstrated good faith by consulting
14 the Commission staff or any other government agency in a manner not constituting a complete defense
15 under Government Code Section 83114(b); (5) whether the violation was isolated or part of a pattern
16 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
17 (6) whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
18 full disclosure.

19 33. That the Commission grant such other and further relief as it deems just and proper.

20
21
22 Dated: 1/23/13



Gary S. Winuk
Chief of Enforcement
Fair Political Practices Commission



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

STATEMENT TO RESPONDENT

[Government Code Section 11505, subdivision (b)]

Jonathan Leone

FPPC Case No. 11-932

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 Gary S. Winuk, Chief of the Enforcement Division at the FPPC.

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

State of California

In the Matter of)	NOTICE OF DEFENSE
)	(Pursuant to Gov. Code § 11506)
)	
Jonathan Leone)	FPPC Case No. 11/932
)	
)	
)	
)	
<u>Respondent.</u>)	

FAIR POLITICAL PRACTICES COMMISSION V JONATHAN LEONE, 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, 11507, 11507.3, 11507.5, 11507.6, 11507.7, and 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.

GROUNDNS 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:

- 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: _____

[Respondents]

Print Name

Mailing Address

City, State, Zip



Before the Fair Political Practices Commission

State of California

In the Matter of)	NOTICE OF DEFENSE
)	(Pursuant to Gov. Code § 11506)
)	
Jonathan Leone)	FPPC Case No. 11/932
)	
)	
Respondent.)	

FAIR POLITICAL PRACTICES COMMISSION V JONATHAN LEONE, 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, 11507, 11507.3, 11507.5, 11507.6, 11507.7, and 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.

GROUNDS 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:

- 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: _____

[Respondents]

Print Name

Mailing Address

City, State, Zip

California Government Code §§ 11506 through 11508

§ 11506. Filing of notice of defense; Contents; Right to hearing on the merits

(a) Within 15 days after service of the accusation the respondent may file with the agency a notice of defense in which the respondent may:

(1) Request a hearing.

(2) Object to the accusation 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 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 in whole or in part.

(5) Present new matter by way of defense.

(6) Object to the accusation 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 respondent may file one or more notices of defense 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, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense 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 shall be deemed waived.

(d) The notice of defense 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.

§ 11507. Amended or supplemental accusation; 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. All parties shall be notified thereof. If the amended or supplemental accusation presents new charges the agency shall afford respondent a reasonable opportunity to prepare his defense thereto, but he 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 may be made orally and shall be noted in the record.

HISTORY:

Added Stats 1945 ch 867 § 1.

§ 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 of any number of issues.

HISTORY:

Added Stats 1995 ch 938 § 30 (SB 523), operative July 1, 1997.

§ 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.

EXHIBIT A-15

DEFAULT DECISION AND ORDER
FPPC NO. 11/932

<i>Attorney or Party without Attorney:</i> FAIR POLITICAL PRACTICES COMMISSION 428 J STREET, STE 620 Sacramento, CA 95814 Telephone No: 916-327-6357				<i>For Court Use Only</i>	
<i>Attorney for:</i> Plaintiff				<i>Ref. No. or File No.:</i>	
<i>Insert name of Court, and Judicial District and Branch Court:</i> The Fair Political Practices Commission, State Of California					
<i>Plaintiff:</i> IN THE MATTER OF <i>Defendant:</i> JONATHAN LEONE					
PROOF OF SERVICE ACCUSATION		<i>Hearing Date:</i>	<i>Time:</i>	<i>Dept/Div:</i>	<i>Case Number:</i> 11-932

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the ACCUSATION; STATEMENT TO RESPONDENT; NOTICE OF DEFENSE
3.

<i>a. Party served:</i>	JONATHAN LEONE
<i>b. Person served:</i>	party in item 3.a. White male, 50 years old, brown/gray hair, 6'0" and 235 lbs
4. *Address where the party was served:*

CITY HALL COUNCIL CHAMBERS
420 LITHO STREET
Sausalito, CA 94965
5. *I served the party:*
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Tue., May. 21, 2013 (2) at: 6:57PM

7. *Person Who Served Papers:*

a. Matt Anderson

Recoverable Cost Per CCP 1033.5(a)(4)(B)

d. *The Fee for Service was:* \$130.00

e. I am: (3) registered California process server

(i) Independent Contractor

(ii) *Registration No.:* 97

(iii) *County:* Marin



S&R
Services

903 Sneath Lane
 Suite #227
 San Bruno, CA 94066
 Phone 650.794.1923
 FAX 650.989.4182

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

Date: Wed, May. 22, 2013

EXHIBIT A-16

**DEFAULT DECISION AND ORDER
FPPC NO. 11/932**



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

July 11, 2013

FIRST CLASS U.S. MAIL

Mr. Jonathan Leone
1001 Bridgeway, suite 648
Sausalito, CA 94956

NOTICE OF INTENT TO ENTER DEFAULT DECISION AND ORDER

**Re: In the Matter of Jonathan Leone
FPPC No. 11/932**

Dear Mr. Leone:

Enclosed please find a copy of the Default Decision and Order, and accompanying Exhibit and attachments, for the above-referenced matter. The Fair Political Practices Commission ("Commission") will consider these papers at its public meeting on **August 22, 2013** and decide whether to impose an administrative penalty in the amount of **\$4,000** or more 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 a Report in Support of a Finding of Probable Cause, the Commission's Hearing Officer found probable cause that you committed several violations of the Political Reform Act's campaign reporting provisions. Thereafter, the Hearing Officer issued an Accusation against you on the same violations. The Accusation was personally served on you on May 21, 2013. 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 a Notice of Defense within 15 days after service of the Accusation. You failed to file the Notice of Defense form within that time. 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.

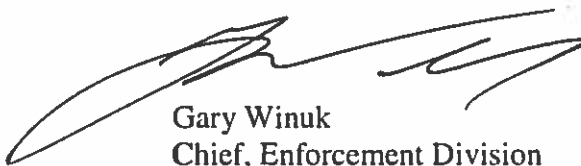
At its public meeting on **August 22, 2013**, the Commission may impose an administrative penalty against you in the amount of **\$4,000**. However, the Commission may impose up to a maximum penalty of **\$5,000** against you for each violation, for a total administrative penalty of **\$10,000**.

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 **August 22, 2013** meeting. Please contact me immediately if you wish to enter into a negotiated settlement.

You may contact Tracey Frazier at (916) 327 – 2019.

Sincerely,



Gary Winuk
Chief, Enforcement Division

Enclosures