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Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of MICHAEL ROGERS AND MIKE ROGERS FOR SUPERVISOR , Respondents.	FPPC No.: 13/280 DEFAULT DECISION AND ORDER (Government Code Sections 11506 and 11520)

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

Pursuant to the California Administrative Procedure Act,[1] Respondents Michael Rogers and Mike Rogers for Supervisor ("Rogers") have been served with all of the documents necessary to conduct an administrative hearing regarding the above-captioned matter, including the following:

1. An Order Finding Probable Cause;
2. An Accusation;
3. A Notice of Defense (Two Copies);
4. A Statement to Respondent; and,
5. Copies of Sections 11506, 11507.5, 11507.6 and 11507.7 of the Government Code.

[1] The California Administrative Procedure Act, which governs administrative adjudications, is contained in sections 11370 through 11529 of the Government Code.

Government Code section 11506 provides that failure of a respondent to file a Notice of Defense within fifteen days after being served with an Accusation shall constitute a waiver of respondent's right to a hearing on the merits of the Accusation. The Statement to Respondent, served on Michael Rogers and Mike Rogers for Supervisor, explicitly stated that a Notice of Defense must be filed in order to request a hearing. Rogers failed to file a Notice of Defense within fifteen days of being served with an Accusation. Government Code Section 11520 provides that, if the respondent fails to file a Notice of Defense, the Commission may take action, by way of a default, based upon the respondent's express admissions or upon other evidence, and that affidavits may be used as evidence without any notice to the respondent.

Michael Rogers and Mike Rogers for Supervisor violated the Political Reform Act as described in Exhibit 1, which are attached hereto and incorporated by reference as though fully set forth herein. Exhibit 1 is a true and accurate summary of the law and evidence in this matter. This Default Decision and Order is submitted to the Commission to obtain a final disposition of this matter.

Dated: 20Nov15

[redacted]

Galena West, Chief of Enforcement
Fair Political Practices Commission

ORDER

The Commission issues this Default Decision and Order and imposes an administrative penalty of $5,000 (Five Thousand Five Dollars) upon Michael Rogers and Mike Rogers for Supervisor, payable to the "General Fund of the State of California."

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

Dated: _____

_____
Joann Remke, Chairman
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondents Michael Rogers ("Rogers") and his controlled committee, Mike Rogers for Supervisor 2012 (the "Committee"), ran an unsuccessful campaign for his candidacy in the June 5, 2012, election for County Supervisor for the County of Nevada.

The Political Reform Act (the "Act")[1] requires candidates and their controlled committees to file a pre-election statement disclosing the contributions received by the Committee, and the expenditures it made prior to the election.[2] Rogers and the Committee violated the Act by failing to file a pre-election statement by the May 24, 2012, deadline.

All relevant evidence in possession of the Enforcement Division is included in the attached Certification of Records ("Certification") filed herewith at Exhibit 1, A-1 through A-13, and incorporated herein by reference.

This matter was referred by the Nevada County Clerk Recorder, Register of Voters.

In this case, Rogers and the Committee violated the Act as follows:

Count 1: As a candidate for the Nevada County Board of Supervisors, District 5, Rogers had a duty to file his pre-election statement for the period from March 18, 2012 through May 19, 2012. Rogers failed to file his pre-election statement by the May 24, 2012 deadline, in violation of Government Code Sections 84200.5, subd. (b), and 84200.7, subd. (a).

DEFAULT PROCEEDINGS UNDER THE ADMINISTRATIVE PROCEDURE ACT

When the Fair Political Practices Commission (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.[3] Notice of the hearing, and the hearing itself, must be conducted in accordance with the Administrative Procedure Act (the "APA").[4] 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.[5]

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[1] The Political Reform Act is contained in Government Code sections 81000 through 91014. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations.

[2] Sections 84200.5, subd. (b) and 84200.7, subd. (a)

[3] Section 83116

[4] The California Administrative Procedure Act, which governs administrative adjudications, is contained in Sections 11370 through 11529 of the Government Code, Section 83116.

[5] Section 11503

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing, (2) object to the accusation's form or substance or to the adverse effects of complying with the accusation, (3) admit the accusation in whole or in part, or (4) present new matter by way of a defense.[6]

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.[7] 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.[8]

PROCEDURAL REQUIREMENTS AND HISTORY

A. Initiation of the Administrative Action

"The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action."[9]

A finding of probable cause may not be made by the Commission unless the person alleged to have violated the Act is 1) notified of the violation by service of process or registered mail with return receipt requested; 2) provided with a summary of the evidence; and 3) informed of his 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.[10] Additionally, the required notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office.[11]

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.[12]

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

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[6] Section 11506, subd. (a)(1)-(6)
[7] Section 11506, subd. (c)
[8] Section 11520, subd. (a)
[9] Section 91000.5, subd. (a)
[10] Section 83115.5
[11] Section 83115.5
[12] Section 91000.5

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against Rogers and his Committee in this matter by serving them with a Report in Support of a Finding of Probable Cause (the "Report") by certified mail, return receipt requested,[13] on April 3, 2014. (Certification, Exhibit A–1, A–2). The administrative action commenced on April 7, 2014, the date Rogers signed the certified mail receipt, and the five year statute of limitations was effectively tolled on this date. (Certification, Exhibit A-2).

As required by Section 83115.5, the packet served on Rogers and the Committee contained a cover letter and a memorandum describing Probable Cause Proceedings, advising that Rogers and the Committee had 21 days in which to request a probable cause conference and/or to file a written response to the Report. (Certification, Exhibit A–3). Rogers and the Committee 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 Rogers and the Committee failed to request a probable cause conference or submit a written response to the Report by the statutory deadline, 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 General Counsel Zackery P. Morazzini on June 16, 2014. (Certification, Exhibit A–4.)

On June 27, 2014, General Counsel Zackery P. Morazzini issued a Finding of Probable Cause and an Order to Prepare and Serve an Accusation on Rogers and the Committee. (Certification, Exhibit A–5.)

C. The Issuance and Service of the Accusation

Under the Act, if the Hearing Officer makes a finding of probable cause, he or she shall prepare an accusation pursuant to Section 11503 of the APA, and have it served on the persons who are the subject of the probable cause finding.[14]

Section 11503 states:

> A hearing to determine whether a right, authority, license or privilege should be revoked, suspended, limited or conditioned shall be initiated by filing an accusation. The accusation shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his defense. It shall specify the statutes and rules which the

[13] Section 8311: 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.

[14] Regulation 18361.4, subd. (e)

> respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such statutes and rules. The accusation shall be verified unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

Upon the filing of the accusation, the agency 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; 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.[15]

Section 11505, subdivision (b) set forth the language required in the accompanying statement to the respondent.

The Accusation and accompanying information 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.[16]

On August 5, 2014, the Commission's Chief of Enforcement Gary Winuk, issued an Accusation against Rogers and the Committee in this matter. (Certification, Exhibit A-7). In accordance with Section 11505, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense Form, copies of Government Code Sections 11506, 11507.5, 11507.6 and 11507.7 were personally served on Michael Rogers, a person authorized to accept service of process on behalf of Respondents, on November 12, 2014. (Certification, Exhibit A–6).

Along with the Accusation, the Enforcement Division served Rogers with a "Statement to Respondent" which notified them that they could request a hearing on the merits and warned that, unless a Notice of Defense was filed within 15 days of service of the Accusation, they would be deemed to have waived the right to a hearing. (Certification, Exhibit A-7). Rogers did not file a Notice of Defense within the statutory time period, which ended on November 26, 2014.

As a result, on December 31, 2015, Commission Counsel Michael W. Hamilton sent a letter to Rogers advising that this matter would be submitted for a Default Decision and Order at the Commission's public meeting scheduled for January 21, 2016. (Certification, Exhibit A-13).

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[15] Section 11505, subdivision (a)
[16] Section 11505, subdivision (c)

A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter.

SUMMARY OF THE LAW

One purpose of the Act is to ensure that receipts and expenditures made in an election are fully and truthfully disclosed so that voters are fully informed regarding candidates activities and improper practices are inhibited.[17] In furtherance of this purpose, the Act places certain obligations on candidates and treasurers to comply with all of the Acts requirements concerning the receipt and expenditure of funds.

Campaign Reporting and the Duty to File Pre-Election Statements

Under the Act's campaign reporting system, candidates and committees are required to file periodic campaign statements disclosing their financial activities. In an even numbered year, candidates for county office and their controlled committees who are being voted upon on the first Tuesday after the first Monday in June are required to file pre-election statements.[18] For the reporting period ending 17 days before the election, a statement is to be filed no later than 12 days before the election.[19]

Treasurer and Candidate Liability

Under the Act, it is the duty of the candidate and the treasurer of a controlled committee to ensure that the committee complies with all of the requirements of the Act concerning the receipt, expenditure, and reporting of funds.[20] The candidate and treasurer may be held jointly and severally liable, along with the committee, for violations committed by the committee.[21]

SUMMARY OF THE EVIDENCE

Rogers was an unsuccessful candidate for the Nevada County Board of Supervisors in an election held on June 5, 2012. (Certification, Exhibit A-10). Rogers and the Committee had an obligation to file a pre-election statement for the period covering March 18, 2012 through May 19, 2012, by the May 24, 2012, deadline. (Certification, Exhibit A-10). Rogers and the Committee violated the Act by failing to file that pre-election statement.

On or about January 28, 2013, the Nevada County Clerk (the "County Clerk") Recorder sent Rogers a letter to notify him that they had not received his pre-election statement and asked him to file it. (Certification, Exhibit A–8).

On or about March 26, 2013, the County Clerk's office sent Rogers a second letter to notify him that they had still not received his campaign statement and warned him that a failure

[17] Section 81002, subsection (a).
[18] Section 84200.7, subdivision (a).
[19] Section 84200.7, subdivision (a)(2).
[20] Sections 81004, 84100 84213, and Regulation 18427
[21] Sections 83116.5 and 91006.

to file his statement within 10 days would result in this matter being referred to the Fair Political Practices Commission's Enforcement Division. (Certification, Exhibit A–9).

On April 2, 2013, the County Clerk gave Rogers a verbal notification regarding his filing obligations. (Certification, Exhibit A–10).

On April 26, 2013, the County Clerk office referred the Rogers matter to the Enforcement Division because they were unsuccessful in their efforts to achieve compliance. (Certification, Exhibit A–10).

On September 19, 2013, the Enforcement Division sent Rogers a letter that requested he file his outstanding pre-election statement. Rogers did not file the statement. (Certification, Exhibit A–11).

On October 25, 2013, the Enforcement Division sent Rogers a second letter requesting that he file his outstanding pre-election statement. Rogers did not file the statement. (Certification, Exhibit A–11).

On October 15, 2015, the Enforcement Division contacted Rogers in a final attempt to get him to file his pre-election statement by the following Wednesday. Rogers agreed to file the statement as requested. On Wednesday October 21, 2015, the Enforcement Division contacted Rogers again since he not filed the outstanding statement by the end of the day as he had promised. Rogers explained that work was preventing him from traveling the long distance to the County Clerk's office, but he said it was possible to file it by Friday. (Certification, Exhibit A-12).

On October 23, 2015, Rogers contacted the Enforcement Division to inform them that he would not be filing his pre-election statement as promised. Rogers explained that his research had revealed that he had never qualified as a committee because the only funds he had in his campaign account was the $5,500 of his own money that he had contributed. He stated that this money was only used to pay for filing fees and he never had any other campaign activity, and therefore, did not qualify as a committee. (Certification, Exhibit A-12).

The staff member explained to Rogers that he qualified as a committee once he received $1,000 or more in contributions, and therefore, the $5,500 he contributed qualified his committee. Rogers stated that he earned this money and did not raise it so it did not count as a contribution, and therefore, he did not have a filing obligation. (Certification, Exhibit A-12).

The staff member further explained that any contribution to a committee is counted toward the $1,000 threshold regardless of whether a candidate contributes their own money or receives it from other people. Rogers was asked to file his statement by the end of day. Rogers became irate and stated that the government is not entitled to know everything. (Certification, Exhibit A-12).

Rogers was so irate that the staff member was not able to discuss the matter with Rogers any further. (Certification, Exhibit A-12).

As of November 20, 2015, Rogers had not filed his outstanding statement. (Certification, Exhibit A-12).

CONCLUSION

This matter consists of one count of violating the Act, which carries a maximum administrative penalty of five thousand dollars ($5,000).[22]

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in the context of the following factors set forth in Regulation 18361.5 subdivision (d)(1) through (6): (1)The seriousness of the violation; (2) The presence or absence of any intention to conceal, deceive or mislead; (3) Whether the violation was deliberate, negligent or inadvertent; (4) Whether the violator demonstrated good faith by consulting the Commission staff or any other governmental agency in a manner not constituting complete defense under Government Code section 83114(b); (5) Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and (5) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

In this matter, Rogers and his Committee failed to file their second pre-election statement by the May 24, 2012, deadline as required by the Act. The failure to comply with this obligation is a serious violation because it denied the voters of Nevada County important information about the activity of the committee during the last few months of the election.

Rogers and his Committee have not demonstrated good faith in resolving this matter. The County Clerk and the Enforcement Division made numerous unsuccessful requests that Rogers and the Committee file their outstanding statement, but Rogers has never complied.

Rogers and the Committee were aware of their obligation to file as evident in the fact that they filed the first pre-election statement due on March 22, 2012.

The mitigating factors are that Rogers does not have a prior history of enforcement actions with the Commission and he lost the election.

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

- *In the Matter of Michael Aldapa,* FPPC No. 13/220, the Commission approved a default order and judgement of $5,000 per violation after the Committee failed file to two pre-election statements and a semi-annual statement. Aldapa was well aware of his obligation to file, but disregarded multiple requests for compliance.

[22] Section 83116, subd. (c).

The Rogers matter is comparable to *Aldapa* in that both were aware of their obligation to file campaign statements and both disregarded requests to do so.

- *In the Matter of San Mateo County Democratic Central Committee and Xavier Martinez,* FPPC No. 15/79, the Commission approved a settlement for $2,500 after the Committee failed to file two pre-election statements, which if timely filed would've disclosed the committee's $12,919 in expenditures and the $72, 165 in contributions that the committee received during the election cycle.

Rogers' and his Committee's failure to file the second pre-election statement is also comparable to the *San Mateo* case cited above. In both cases, critical information about the Committee's activities in the last few months leading up to the election was not disclosed. However, Rogers unlike *San Mateo* did not make an effort to work with the Commission to resolve this matter before it reached the stage of issuing a probable cause report. The fact that *San Mateo* worked with the Commission was a significant factor in the Enforcement Division's decision to not seek a higher penalty that would have been justified due to the level sophistication of the committee. Rogers' and his committee's lack of cooperation in this matter should be given equal weight in assessing a penalty of $5,000.

PROPOSED PENALTY

After consideration of the factors of Regulation 18361.5, it is respectfully requested that a penalty of $5,000 is imposed against Rogers and the Committee.

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 Staff Services Analyst 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. 13/280, Michael Rogers and Mike Rogers for Supervisor,* 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. Copy of the Report in Support of a Finding of Probable Cause;

EXHIBIT A-2. Copy of Proof of Service

EXHIBIT A-3. Copy of Cover letter regarding the Report in Support of a Finding of Probable Cause and accompanying documents;

EXHIBIT A-4. Copy of Ex Parte Request for a Finding of Probable Cause and an order that an Accusation be prepared and served;

EXHIBIT A-5. Copy of Proof of Service regarding the Finding of Probable Cause and Order to Prepare and Serve an Accusation;

EXHIBIT A-6. Copy of Affidavit of Service regarding the Accusation;

EXHIBIT A-7. Copy of Statement to the Respondent, Accusation, and accompanying documents;

EXHIBIT A-8. Copy of a Letter from the Nevada County Clerk Recorder/Registrar of Voters to Mike Rogers, dated January 28, 2013;

EXHIBIT A-9. Copy of a Letter from the Nevada County Clerk Recorder/Registrar of Voters to Mike Rogers, dated March 26, 2013;

EXHIBIT A-10. Copy of the referral of Michael Rogers and Mike Rogers for Supervisor 2012, dated April 26, 2013, and election results for the June 5, 2012;

EXHIBIT A-11. Copy of Declaration of Terri Rindahl in Support of Default Decision and Order.

EXHIBIT A-12. Copy of Declaration of Michael W. Hamilton in Support of Default Decision and order.

EXHIBIT A-13. Copy of Notice of Intent to Enter into Default Decision and Order.

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

Executed on December 31, 2015, Sacramento, Cal[redacted]

Kathryn Trumbly
Staff Services Analyst
Fair Political Practices Commission

Exhibit A-1

GARY S. WINUK
Chief of Enforcement
FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5660
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Attorney for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of MICHAEL ROGERS AND MIKE ROGERS FOR SUPERVISOR 2012 Respondents.	FPPC No. 13/280 REPORT IN SUPPORT OF A FINDING OF PROBABLE CAUSE Conference Date: TBA Conference Time: TBA Conference Location: Commission Offices 428 J Street, Suite 800 Sacramento, CA 95814

INTRODUCTION

Respondents are Michael Rogers ("Respondent Rogers") and his controlled committee, Mike Rogers for Supervisor 2012 ("Respondent Committee"). At all relevant times, Respondent Rogers was the treasurer of Respondent Committee. Respondent Rogers was an unsuccessful candidate for County Supervisor for the County of Nevada in the June 5, 2012 election.

This matter arose out of a referral from the Nevada County Clerk-Recorder which alleged that Respondents failed to file a required pre-election campaign statement in connection with the June 5, 2012 election, as required under the Political Reform Act (the "Act").[1]

[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.

Respondent Rogers failed to timely file a pre-election campaign statement for the period covering March 18, 2012 through May 19, 2012, after written notifications were given to him. To date, Respondent has still failed to file the required campaign statement.

This Report in Support of a Finding of Probable Cause therefore alleges that Respondents violated the Act as follows:

COUNT 1: Respondents Michael Rogers and Mike Rogers for Supervisor 2012 failed to timely file, with the Nevada County Clerk/Recorder, a required pre-election campaign statement for the reporting period of March 18, 2012 through May 19, 2012, by the May 24, 2012 due date, in violation of Sections 84200.5, subdivision (b), and 84200.7, subdivision (a).

SUMMARY OF THE LAW

Jurisdiction

Section 83116 provides the Fair Political Practices Commission (the "Commission") with administrative jurisdiction to enforce the provisions of the Act.

Probable Cause Proceedings

Prior to bringing an enforcement action, the General Counsel of the Commission or his designee (the "hearing officer"), must make a finding that there is probable cause to believe the Respondent has violated the Act. (Section 83115.5, and Regulations 18361 and 18361.4, subd. (e).) After a finding of probable cause, the Commission may hold a hearing[2] to determine whether violations occurred, and levy an administrative penalty of up to Five Thousand Dollars $5,000 for each violation. (Section 83116.)

Standard for Finding Probable Cause

A probable cause determination is governed by Sections 83115.5 and 83116, and Regulation 18361.4. For the hearing officer to make a finding of probable cause, it is only necessary that he be presented with sufficient evidence to lead a person of ordinary caution and prudence to believe, or

[2]A noticed hearing is to be held in accordance with the provisions of the Administrative Procedure Act, commencing with Government Code section 11500.

entertain a strong suspicion, that a respondent committed or caused a violation. (Regulation 18361.4, subd. (e).)

Filing of Campaign Statements

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be prohibited. The Act therefore establishes a comprehensive campaign reporting system designed to accomplish these purposes of disclosure.

The following discussion reflects the Act as it was in effect at the time of the relevant violations.

Duty to File Campaign Statements

The Act requires candidates to file campaign statements at specific times disclosing information regarding contributions received and expenditures made by the campaign committees. A candidate includes, in relevant part, an individual who is listed on the ballot for election to any elective office. (Section 82007).

Duty to File Pre-Election Campaign Statements

During an even-numbered year, candidates for county office, as specified in Section 84200.5, subdivision (b), and their controlled committees who are being voted upon on the first Tuesday after the first Monday in June, are required to file a pre-election campaign statement as specified in Section 84200.7, subdivision (a). Section 84200.7, subdivision (a)(2), provides that for the filing of a pre-election campaign statement for the June election for the period ending 17 days before the election, a statement shall be filed no later than 12 days before the election.

Treasurer and Candidate Liability

As provided in Section 84100, every committee shall have a treasurer. Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Sections 83116.5 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

SUMMARY OF THE EVIDENCE

This matter arose from a non-filer referral that the Enforcement Division received from the Nevada County Clerk-Recorder against Respondent Committee. Respondent Mike Rogers was an unsuccessful candidate for the Nevada County Board of Supervisors in the June 5, 2012 election. As a candidate, Respondent Rogers had an obligation to file campaign statements in connection with the election. For the June election, a pre-election statement was due no later than May 24, 2012, covering the period of March 18, 2012 through May 19, 2012. Respondent did not file the required statement.

Respondent Rogers was notified of his outstanding filing obligation both verbally and in writing by the Nevada County Clerk-Recorder's office numerous times. Respondent Rogers was also notified in writing on two occasions of his filing obligations by the Enforcement Division. As of this date, Respondent Rogers has not responded and has not filed his required statement.

COUNT 1

Failure to Timely File Pre-Election Campaign Statement

Respondent Mike Rogers was an unsuccessful candidate for the Nevada County Board of Supervisors in the June 5, 2012 election. As a candidate, Respondent Rogers had an obligation to file campaign statements in connection with the election. For the June election, a pre-election statement was due no later than May 24, 2012, covering the period of March 18, 2012 through May 19, 2012. Respondent did not file the required statement.

Respondent Rogers was notified of his outstanding filing obligations in writing by the Nevada County Clerk-Recorder on January 28, 2013, and again on March 26, 2013. A verbal notification was also provided on April 2, 2013.

On or about April 26, 2013, because Respondent Rogers had not filed the required pre-election statement, the matter was referred to the Commission's Enforcement Division. On or about September 19, 2013, staff of the Enforcement Division again provided written notification to Respondent Rogers regarding his obligation to file, and was required to respond no later than October 11, 2013. After Respondent Rogers failed to respond, on October 25, 2013, staff of the Enforcement Division again

issued written notification to Respondent Rogers about his filing obligations and required him to respond no later than November 13, 2013. Respondent Rogers failed to respond to this deadline. To date, Respondent Rogers has not filed the outstanding pre-election campaign statement.

Therefore, Respondent Rogers violated the Act by failing to timely file a required pre-election campaign statement for the reporting period of March 18, 2012 through May 19, 2012 by the May 24, 2012 due date, in violation of Sections 84200.5, subdivision (b), and 84200.7, subdivision (a).

FACTORS IN AGGRAVATION

Respondent Rogers has yet to file his required pre-election campaign statement for the reporting period of March 18, 2012 through May 19, 2012 more than eighteen months after the original May 24, 2012 due date. Respondent Rogers has received numerous written notifications about his filing obligations from both the Nevada County Clerk-Recorder's office and the Commission's Enforcement Division and has not responded in any fashion.

FACTORS IN MITIGATION

There are no factors in mitigation or exculpation.

CONCLUSION

Probable cause exists to believe that Respondents committed one violation of the Act as set forth above. An Accusation should therefore be issued in accordance with the procedures described in Regulation 18361.4, subdivision (e), charging Respondents with violating the Act.

Dated: April 3, 2014

Respectfully submitted,

[redacted]

Gary S. Winuk
Chief of Enforcement

Exhibit A-2

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814. On April 3, 2014, I served the following document(s):

1. Letter dated April 3, 2014 from Gary S. Winuk;
2. FPPC No. 13/280 Michael Rogers and Mike Rogers for Supervisor 2012 Report in Support of a Finding of Probable Cause;
3. Probable Cause Fact Sheet
4. Selected Sections of the California Government Code regarding Probable Cause Proceedings for the Fair Political Practices Commission; and
5. Selected Regulations of the Fair Political Practices Commission regarding Probable Cause Proceedings

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

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

SERVICE LIST

Michael Rogers

Mike Rogers for Supervisor 2012

[redacted]

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 3, 2014.

[redacted]

Tracey Frazier [redacted]

7006 0810 0000 5120 9911

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OFFICIAL USE

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Sent To: Michael Rogers
Street, Apt. No., or PO Box No.: [redacted]
City, State, ZIP+4:

PS Form 3800, June 2002 — See Reverse for Instructions

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:

Michael Rogers
Mike Rogers for Supervisor 2012
[redacted]

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [redacted]
☐ Agent
☒ Addressee

B. Received by (Printed Name): Mikael Rogers
C. Date of Delivery: 4/7/14

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)*: 7006 0810 0000 5120 9911

PS Form 3811, February 2004 — Domestic Return Receipt — 102595-02-M-1540

Exhibit A-3

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

April 3, 2014

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Michael Rogers
Mike Rogers for Supervisor 2012
[redacted]

In the Matter of Michael Rogers and Mike Rogers for Supervisor 2012; FPPC No. 13/280

Dear Mr. Rogers:

The Enforcement Division of the Fair Political Practices Commission (the "Commission") is proceeding with an administrative action against you for your failure to comply with the filing and disclosure provisions of the Political Reform Act (the "Act"), as described in our previous correspondence dated October 25, 2013 and September 19, 2013. The enclosed Report in Support of a Finding of Probable Cause (the "Report") contains a summary of the alleged violations and the relevant law and evidence. The report has been filed with the Commission's General Counsel (the "Hearing Officer") and is now being served upon you.

You have the right to file a written response to the Report. That response may contain any information you think is relevant and that you wish to bring to the attention of the Hearing Officer. In your response, please indicate whether you would like the Hearing Officer to make a determination of probable cause based on the written materials alone (the Report and your response) or request a conference, during which you may orally present your case to the Hearing Officer. Probable cause conferences are held in our office which is located at 428 J Street, Ste. 620, Sacramento, CA 95814. You may appear at the conference in person or by telephone and you are entitled to be represented by counsel. ***If you wish to submit a written response or request a probable cause conference, it must be filed with the Commission Assistant, Kelli Breton, at the address listed above within 21 days from the date of service of this letter.*** You can reach Ms. Breton at (916) 327-8269.

Please note: probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether there is probable cause to believe that the Act was violated. However, settlement discussions are encouraged by the Commission and may take place at any time except during a probable cause conference. ***If you are interested in reaching a settlement in this matter, please contact Tracey Frazier at (916) 327-2019 or tfrazier@fppc.ca.gov.***

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

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

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

Sincerely,

[redacted]

Gary S. Winuk, Chief
Enforcement Division

GSW/kl
Enclosures

PROBABLE CAUSE FACT SHEET

INTRODUCTION

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

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

THE LAW

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

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

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

a) A written probable cause report containing a summary of the law alleged to have been violated, and a summary of the evidence, including any exculpatory and mitigating information and any other relevant material and arguments;

b) The opportunity to request discovery, respond in writing, and to request a probable cause conference within 21 days of service of the probable cause report;

c) If the Commission met to consider whether a civil lawsuit should be filed in this matter, a copy of any staff memoranda submitted to the Commission and a transcript of staff discussions with the Commission at any such meeting; and

d) If a timely request was made, a non-public conference with the General Counsel and the Enforcement Division staff to consider whether or not probable cause exists to believe the Act was violated.

THE PROCEDURE

Probable Cause Report

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

Discovery

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

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

Response to Probable Cause Report

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

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

Staff Reply

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

Probable Cause Conference

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

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

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

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

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

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[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.)

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

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

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

Probable Cause Order and Accusation

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

Continuances

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

Settlements

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

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

CONCLUSION

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

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

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

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

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

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

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

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

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

§ 18361.4. Probable Cause Proceedings

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

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

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

(c) Response to Probable Cause Report.

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

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

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

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

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

§ 18362. Access to 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.

§ 18361.2. Memorandum Respecting Civil Litigation.

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

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

(1) Initiate civil litigation.

(2) Decide whether probable cause proceedings should be commenced pursuant to 2 Cal. Code of Regulations Section 18361.4.

(3) Return the matter to the staff for further investigation.

(4) Take no further action on the matter or take any other action it deems appropriate.

(c) If the Commission decides to initiate civil litigation, the Commission may then permit other members of the staff to attend the executive session.

(d) If the Executive Director deems it necessary, he or she may call a special meeting of the Commission to review a staff memorandum recommending the initiation of civil litigation.

(e) It is the intent of the Commission in adopting this section to preserve for the members of the Commission the authority to decide whether alleged violations should be adjudicated in administrative hearings or in civil litigation, while at the same time avoiding the possibility that discussions with members of the staff might cause members of the Commission to prejudge a case that might be heard by the Commission under Government Code Section 83116.

Exhibit A-4

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

Attorney for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	FPPC No. 13/280
MICHAEL ROGERS AND MIKE ROGERS FOR SUPERVISOR 2012	EX PARTE REQUEST FOR A FINDING OF PROBABLE CAUSE AND AN ORDER THAT AN ACCUSATION BE PREPARED AND SERVED
Respondent.	Gov. Code § 83115.5

TO ZACKERY P. MORAZZINI, GENERAL COUNSEL OF THE FAIR POLITICAL PRACTICES COMMISSION:

Pursuant to Section 83115.5 of the Political Reform Act (the "Act")[1] and Regulation 18361.4, Respondent Michael Rogers was served with a copy of a Report in Support of a Finding of Probable Cause (the "Report") in the above-entitled matter. The Report (attached as "Exhibit A"), was part of a packet of materials, including a cover letter and a memorandum describing Probable Cause Proceedings, which was sent to Respondent by the Enforcement Division on April 3, 2014, by certified mail, with a return receipt requested. (The proof of service for the Report is attached as "Exhibit B".)

[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.

The United States Postal Service delivered the Report and attached materials to Respondent on April 7, 2014. (A copy of the confirmation page is attached as "Exhibit C".) On April 9, 2014, the Enforcement Division received the original return receipt indicating that Respondent received the Report and attached materials. (A copy of the return receipt is attached as "Exhibit D".)

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

WHEREFORE, based on the attached Report, the Enforcement Division requests a finding by the General Counsel that probable cause exists to believe that Respondent Michael Rogers committed one violation of the Act. Additionally, after finding probable cause exists, the Enforcement Division requests an Order by the General Counsel that an Accusation be prepared against Respondent, pursuant to Section 11503, and served upon him forthwith.

Dated: June 16, 2014

Respectfully Submitted,

FAIR POLITICAL PRACTICES COMMISSION

By: Gary S. Winuk
Chief of Enforcement

[redacted]

Exhibit A-5

FPPC No. 13/280, In the matter of Michael Rogers and Mike Rogers for Supervisor 2012

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814. On the date below, I served the following document:

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

MANNER OF SERVICE

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

SERVICE LIST

Michael Rogers
Mike Rogers for Supervisor 2012
[redacted]

(By Personal Service) On Friday, June 27, 2014, at approximately 11:15 a.m., I personally served:

Gary Winuk, Chief of Enforcement, at 428 J Street, Suite 700, Sacramento, CA 95814.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this document is executed at Sacramento, California, on June 27, 2014.

[redacted]

John Kim

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	) FPPC No. 13/280
MICHAEL ROGERS AND MIKE ROGERS FOR SUPERVISOR 2012	) FINDING OF PROBABLE CAUSE AND ORDER TO PREPARE AND SERVE AN ACCUSATION
Respondent.	) Gov. Code § 83115.5

By means of an Ex Parte Request for an Order Finding Probable Cause, dated June 16, 2014, 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 Michael Rogers concerning this matter on April 3, 2014. 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.

Probable cause to believe a violation has occurred can be found to exist when "the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that the proposed respondent(s) committed or caused a violation." (Regulation 18361.4, subd. (e).)

The Probable Cause Report served on Respondent and the subsequent Ex Parte Request for an Order Finding Probable Cause in this matter alleges one violation of the Political Reform Act was committed, as follows:

COUNT 1: Failure to Timely File Pre-Election Campaign Statement in violation of Government Code Section 84200.5.

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

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

IT IS SO ORDERED.

Dated: 6-27-14

[redacted]
Zackery P. Morazzini
General Counsel

Exhibit A-6

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION STATE OF CALIFORNIA

IN THE MATTER OF MICHAEL ROGERS AND MIKE ROGERS FOR SUPERVISOR 2012

Case No:13/280

Plaintiff,

Affidavit of Service

STATE OF NEVADA
COUNTY OF WASHOE ss.:

JENLEE KNIGHT PARKER [redacted], being duly sworn says: That at all times herein affiant was and is a citizen of the United States over 18 years of age, not a party to nor interested in the proceedings in which this affidavit is made.

That affiant received copy(ies) of the STATEMENT TO RESPONDENT; ACCUSATION; CALIFORNIA GOVERNEMENT CODE 11506 THROUGH 11508; NOTICE OF DEFENSE, on 11/06/2014 and served the same on **11/12/2014** at **2:04 PM** by delivering and leaving a copy with:

MICHAEL ROGERS at [redacted]

A description of the Recipient, or other person served on behalf of the Recipient is as follows:

Sex	Color of skin/race	Color of hair	Age	Height	Weight
Male	[redacted]				
Other Features:	[redacted]				

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

[redacted]

Sworn to and subscribed before me on 11/13/2014
by JENLEE KNIGHT PARKER [redacted]

[redacted]

Not[redacted]

JENLEE KNIGHT PARKER [redacted]
Registration#: [redacted]
Reno/Carson Messenger Service, Inc. (Lic#[redacted])
185 Martin Street
Reno, NV 89509
775.322.2424
Atty File#: ROGERS

JOHN[redacted]O LAZETICH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
[redacted] 28, 20[redacted]

56333

Exhibit A-7

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)]

Michael Rogers; Mike Rogers for Supervisor 2012

FPPC Case No. 13/280

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 with 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.

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

Attorney for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	FPPC No. 13/280
MICHAEL ROGERS AND MIKE ROGERS FOR SUPERVISOR 2012,	ACCUSATION (Gov. Code Section11503)
Respondents.	

Complainant, the Fair Political Practices Commission, after a finding of probable cause made pursuant to Government Code Section 83115.5, hereby alleges the following:

JURISDICTION

1. Complainant is the Fair Political Practices Commission (the "Commission") and makes this Accusation in its official capacity and in the public interest.

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

3. When enacting the Political Reform Act (the "Act"),[1] California voters specifically found and declared, as stated in Sections 81001, subd. (h), and 81002, subd. (f), that previous laws regulating

[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

political practices had suffered from inadequate enforcement, and it was their purpose to ensure that the Act be vigorously enforced.

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

5. One of the stated purposes of the Act, as set forth in Section 81002, subd. (a), is to ensure that receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.

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

RESPONDENT

7. Respondent Michael Rogers ("Respondent Rogers") was, at all times relevant to this Accusation, an unsuccessful candidate for the Nevada County Board of Supervisors, District 5, in the June 5, 2012 Presidential Primary Election.

8. Respondent Mike Rogers for Supervisor 2012 ("Respondent Committee") was, at all times relevant to this Accusation, Respondent Rogers' controlled committee.

9. The actions of Respondents – failing to file a pre-election campaign statement as hereinafter stated – are in violation of the law and public policies of the State of California.

APPLICABLE LAW

10. All applicable law referenced herein is the law as it existed during the relevant time for the violations alleged in this Accusation, namely March 18, 2012 through May 19, 2012.

A. Definitions

11. Section 82007 of the Act defines a "candidate" as an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination for or election to any elective office. An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Section 84214.

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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.

12. Section 82013, subd. (a) of the Act includes within the definition of "committee" any person or combination of persons who receives contributions of $1,000 or more during a calendar year. This type of committee is commonly referred to as a "recipient committee."

13. Pursuant to Section 82016, subd. (a), a controlled committee is a committee that is controlled directly or indirectly by a candidate. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

B. Duty to File Campaign Statements

14. The Act requires candidates to file campaign statements at specific times disclosing information regarding contributions received and expenditures made by the campaign committees. A candidate includes, in relevant part, an individual who is listed on the ballot for elections to any elective office. (Section 82007).

i. Duty to File Pre-Election Campaign Statements

15. During an even-numbered year, candidates for county office, as specified in Section 84200.5, subd. (b), and their controlled committees who are being voted upon on the first Tuesday after the first Monday in June, are required to file a pre-election campaign statement as specified in Section 84200.7, subd. (a). Section 84200.7, subd. (a)(2), provides that for filing of a pre-election campaign statement for the June election for the period ending 17 days before the election, a statement shall be filed no later than 12 days before the election.

ii. Treasurer and Candidate Liability

16. As provided in Section 84100, every committee shall have a treasurer. Under Section 84100 and Regulation 18427, subd. (a), it is the duty of a committee's treasurer to ensure that the committee complies with all the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Sections 83116.5 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

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

17. In framing a proposed order following a finding of a violation pursuant to 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 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. (Regulation 18361.5, subd. (d).)

GENERAL FACTS

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

19. Respondent Rogers was a candidate for the Nevada County Board of Supervisors, District 5, in the June 5, 2012 election. As a candidate, Respondent Rogers had an obligation to file campaign statements in connection with the June 5, 2012 election.

20. A pre-election statement was due no later than May 24, 2012, covering the period of March 18, 2012 through May 19, 2012. Respondent Rogers did not file this statement.

21. Respondent Rogers was notified of his outstanding filing obligation both verbally and in writing by the Nevada County Clerk-Recorder's office on three occasions. The Clerk-Recorder's office gave him a written notification of his obligation on January 28, 2013. He also received a second written notification on March 26, 2013. He received a verbal notification on April 2, 2013. Respondent Rogers was also notified of his filing obligations in writing on three occasions by the Enforcement Division. The first official notice of a settlement offer was sent on September 19, 2013. The second offer was sent

on October 25, 2013. A probable cause report was sent via certified mail to Respondent Rogers on April 3, 2014, and he signed for the delivery. As of this date, Respondent Rogers has not responded to any Enforcement Division letters and has not filed his required statement.

COUNT 1

Failure to Timely File Pre-Election Campaign Statement

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

23. As a candidate for the Nevada County Board of Supervisors, District 5, Respondent Rogers had a duty to file his pre-election campaign statement.

24. Respondent Rogers failed to file his pre-election campaign statement in violation of Government Code Sections 84200.5, subd. (b), and 84200.7, subd. (a).

MITIGATING OR EXCULPATORY FACTORS

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

26. Respondent Rogers was not successful in his bid for office. Respondent Rogers also has no prior enforcement history with the FPPC.

AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS

27. Complainant incorporates paragraphs 1 – 26 of this Accusation, as though completely set forth herein.

28. Respondent did not file his required pre-election campaign statement for the reporting period of March 18, 2012 through May 19, 2012 more than eighteen months after the original May 24, 2012 due date. Respondent Rogers has never responded to communication from the FPPC for the purpose of resolving this matter.

PRAYER

WHEREFORE, Complainant prays as follows:

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

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

31. That the Commission, pursuant to Title 2, California Code of Regulations, Section 18361.5, subd. (d), consider the following factors in framing a proposed order following a finding of a violation pursuant to Government Code Section 83116: (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.

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

Dated: 8/5/14

[redacted]

Gary S. Winuk
Chief of Enforcement
Fair Political Practices Commission

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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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 .

§ 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.

Before the Fair Political Practices Commission

State of California

In the Matter of	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
	)	
MICHAEL ROGERS, AND MIKE ROGERS FOR 2012	)	FPPC Case No. 13/470
	)	
	)	
	)	
	)	
Respondent(s).		

MICHAEL ROGERS, AND MIKE ROGERS FOR 2012, Respondents named in the above entitled proceeding, hereby acknowledge receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE*.

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

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

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

Before the Fair Political Practices Commission

State of California

In the Matter of	)	NOTICE OF DEFENSE
	)	(Pursuant to Gov. Code § 11506)
	)	
MICHAEL ROGERS, AND MIKE ROGERS FOR 2012	)	FPPC Case No. 13/470
	)	
	)	
	)	
	)	
Respondent(s).		

MICHAEL ROGERS, AND MIKE ROGERS FOR 2012, Respondents named in the above entitled proceeding, hereby acknowledge receipt of the Accusation, a copy of the Statement to Respondent, a copy of Government Code Sections 11506 through 11508, and two copies of a *NOTICE OF DEFENSE.*

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

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

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

Exhibit A-8

Nevada County Clerk Recorder, Registrar of Voters

County Clerk - Recorder
950 Maidu Avenue, Suite 210
Nevada City, CA 95959
Phone: (530) 265-1221
Fax: (530) 265-9842
mynevadacounty.com/recorder

Gregory J. Diaz
County Clerk – Recorder

Gail Smith
Asst. County Clerk – Recorder

County Elections
950 Maidu Avenue, Suite 250
Nevada City, CA 95959
Phone: (530) 265-1298
Fax: (530) 265-9829
mynevadacounty.com/elections

January 28, 2013

Michael Rogers
Re: Mike Rogers for Supervisor 2012
[redacted]

Dear Michael Rogers,

Our records indicate that your campaign "Mike Rogers for Supervisor 2012" Committee ID Number 1346344 is active. Our records indicate that we have not received any filings since the last statement, Form 460, filing period ending 03/17/12. Please file the required FPPC forms to bring your committee up to date.

The Political Reform Act prohibits filing officers from extending a filing deadline. Please file your late statements immediately.

If you have filed any other statements, please contact our office so that we many verify our records.

If you have questions regarding disclosure rules, please contact the Fair Political Practices Commission's toll free number (866) 275-3772. Free telephone assistance is Available Monday through Thursday 9AM-11:30AM and 1:30PM-3:30PM. All campaign forms may be obtained from the FPPC's website at www.fppc.ca.gov.

Sincerely,

Elise Strickler
Senior Clerk-Recorder Assistant
(530) 265-1700

Exhibit A-9

Nevada County Clerk-Recorder / Registrar of Voters

County Clerk - Recorder
950 Maidu Avenue, Suite 210
Nevada City, CA 95959
Phone: (530) 265-1221
Fax: (530) 265-9842
mynevadacounty.com/nc/recorder

Gregory J. Diaz
County Clerk – Recorder

Gail Smith
Asst. County Clerk – Recorder

County Elections
950 Maidu Avenue, Suite 250
Nevada City, CA 95959
Phone: (530) 265-1298
Fax: (530) 265 –9829
mynevadacounty.com/nc/elections

Tuesday, March 26, 2013

Michael Rogers
Re: Mike Rogers for Supervisor 2012
[redacted]

Dear Mr. Rogers,

On January 28, 2013, our office wrote to you stating that we have not received your campaign disclosure statements since your last statement, Form 460, filing period ending 3/17/12. To date, our office has not received these statements. Please file your campaign statements within 10 days of the date of this letter.

Our office will refer this matter to the Fair Political Practices Commission's Enforcement Division if these statements are not filed. This may result in fines.

If you have already filed these statements, please contact our office so that we may verify our records.

Sincerely,

Thomas Graham
Clerk-Recorder Assistant 1
Nevada County Elections Office

Exhibit A-10

Campaign Disclosure Statements
Non-Filer Enforcement Referral

In order to expedite the enforcement referral, please complete the information below.

RECEIVED
APR 23 2013
FAIR POLITICAL PRACTICES COMMISSION

I. Filing Official

Contact Person: Elise Strickler City/County: Nevada County

Address: 950 Maidu Ave, Ste 250, Nevada City, CA 95959

Telephone: 530-265-1700 Fax: 530-265-9828

II. Non-Filer

Name: Michael Rogers Office Sought: Board of Supervisors Dist. 5

Address: [redacted]

Telephone: Bus. _____ Home: [redacted]

Date of Election: 6/5/2012 Incumbent ☐ Non-Incumbent ☒
(If applicable)

Type of Statement: Pre-election Date Due: 5/24/2012

Period Covering: 3/18-5/19/12 Number of Prior Filings: 1
(Attach copy of Form 410 and most recent statement filed) (If applicable)

Number of Prior Late Filings: 0

III. Notifications: (Attach copy of written notifications)

Date: 1/28/13 Verbal ☐ Written ☒ Date: 4/2/13 Verbal ☒ Written ☐

Date: 3/26/13 Verbal ☐ Written ☒ Date: _____ Verbal ☐ Written ☐

Please note: Two notifications must be sent before referring this matter to the Fair Political Practices Commission Enforcement Division for consideration for formal enforcement action.

If you have any questions, please call the Enforcement Division at (916) 322-5660. Return the completed form and attachments to: Fair Political Practices Commission, Enforcement Division, 428 J Street, Suite 620, Sacramento, CA 95814.

Cumulative Report — Official
County of Nevada, California — PRESIDENTIAL PRIMARY ELECTION JUNE 5, 2012 — June 05, 2012

06/20/2012 08:39 AM

Total Number of Voters : 31,333 of 60,638 = 51.67%

Precincts Reporting 74 of 74 = 100.00%

Party	Candidate	Mail Ballot Precinct		Vote By Mail		Polling Place		Total	
County Supervisor District 5, Vote For 1									
	RICHARD ANDERSON	250	53.88%	1,287	68.31%	485	68.89%	2,022	66.25%
	MIKE ROGERS	214	46.12%	597	31.69%	219	31.11%	1,030	33.75%
	Unresolved Write-Ins	0	0.00%	0	0.00%	0	0.00%	0	0.00%
	Cast Votes:	464	81.12%	1,884	83.07%	704	85.64%	3,052	83.34%
	Over Votes:	0	0.00%	1	0.04%	0	0.00%	1	0.03%
	Under Votes:	108	18.88%	383	16.89%	118	14.36%	609	16.63%
Proposition 28, Vote For 1									
	YES	2,560	53.96%	10,262	55.07%	2,853	45.93%	15,675	52.97%
	NO	2,184	46.04%	8,373	44.93%	3,359	54.07%	13,916	47.03%
	Cast Votes:	4,744	93.59%	18,635	93.85%	6,212	96.91%	29,591	94.43%
	Over Votes:	2	0.04%	8	0.04%	2	0.03%	12	0.04%
	Under Votes:	323	6.37%	1,213	6.11%	196	3.06%	1,732	5.53%
Proposition 29, Vote For 1									
	YES	2,035	42.05%	8,387	44.08%	2,660	42.00%	13,082	43.32%
	NO	2,804	57.95%	10,641	55.92%	3,674	58.00%	17,119	56.68%
	Cast Votes:	4,839	95.46%	19,028	95.83%	6,334	98.81%	30,201	96.38%
	Over Votes:	1	0.02%	4	0.02%	2	0.03%	7	0.02%
	Under Votes:	229	4.52%	824	4.15%	74	1.15%	1,127	3.60%
Measure B, Vote For 1									
	YES	300	53.57%	1,259	61.99%	460	64.61%	2,019	61.13%
	NO	260	46.43%	772	38.01%	252	35.39%	1,284	38.87%
	Cast Votes:	560	98.07%	2,031	96.81%	712	96.22%	3,303	96.89%
	Over Votes:	0	0.00%	0	0.00%	0	0.00%	0	0.00%
	Under Votes:	11	1.93%	67	3.19%	28	3.78%	106	3.11%
Measure C, Vote For 1									
	YES	41	59.42%	0	0.00%	0	0.00%	41	59.42%
	NO	28	40.58%	0	0.00%	0	0.00%	28	40.58%
	Cast Votes:	69	94.52%	0	0.00%	0	0.00%	69	94.52%
	Over Votes:	0	0.00%	0	0.00%	0	0.00%	0	0.00%
	Under Votes:	4	5.48%	0	0.00%	0	0.00%	4	5.48%

Exhibit A-11

GALENA WEST
Chief of Enforcement
MICHAEL W. HAMILTON
Commission Counsel
FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5772
Facsimile: (916) 322-1932

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	) FPPC No. 13/280
MICHAEL ROGERS, AND MIKE ROGERS FOR SUPERVISOR 2012	) DECLARATION OF TERI RINDAHL IN SUPPORT OF DEFAULT DECISION AND ORDER
Respondent.	) (Gov. Code §§ 11506 and 11520)

I, Teri Rindahl, declare as follows:

1. I am over the age of 18 years and not a party to the within action. My business address is 428 J Street, Suite 620, Sacramento, California.

2. I am a Political Reform Consultant for the Enforcement Division of the Fair Political Practices Commission (the "Commission"), and have worked for the Commission since 1988.

3. On September 19, 2013, I sent Michael Rogers and his committee Mike Rogers for Supervisor 2012 a letter requesting that he file his outstanding pre-election statement. I did not receive a response from Rogers or his committee regarding my request to file his outstanding statement, nor did Rogers or his committee file it.

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///

4. On October, 25, 2013, I sent Michael Rogers and his committee Mike Rogers for Supervisor 2012 a second letter requesting that he file his outstanding pre-election statement with his filing officer. I did not receive a response from Rogers or his committee regarding my request to file his outstanding statement, nor did Rogers or his committee file it.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Sacramento County on 11/19, 2015.

Dated: 11/19/15

[redacted]

Teri Rindahl
Political Reform Consultant, Enforcement Division
Fair Political Practices Commission

Exhibit A-12

GALENA WEST
Chief of Enforcement
MICHAEL W. HAMILTON
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Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

STATE OF CALIFORNIA

In the Matter of	) FPPC No. 13/280
MICHAEL ROGERS, AND MIKE ROGERS FOR SUPERVISOR 2012	) DECLARATION OF MICHAEL HAMILTON) IN SUPPORT OF DEFAULT DECISION) AND ORDER
Respondent.	) (Gov. Code §§ 11506 and 11520)

I, Michael Hamilton, declare as follows:

1. I am a Commission Counsel for the Enforcement Division of the Fair Political Practices Commission (the "Commission").

2. On October 15, 2015, I contacted Michael Rogers ("Rogers"), the respondent in this matter, to notify him that I was preparing a default order and judgement and to give him a final opportunity to file his outstanding pre-election campaign statement by the following Wednesday. Rogers agreed to file the statement as requested.

3. On Wednesday October 21, 2015, I contacted Rogers to find out why he had not filed his pre-election statement by the end of the day as he had promised. Rogers explained that he was working and it prevented him from traveling the long distance to the County Clerk's office, but he said it was possible to file it by the upcoming Friday.

4. On Friday October 23, 2015, Rogers called to let me know he would not be filing his pre-election statement as promised. Rogers explained that his research revealed that he had never qualified as a committee because the only funds he had in his campaign account was the $5,500 of his own money that he had contributed. He also emphasized that this money was only used to pay for filing fees and he never had any other campaign activity.

5. I explained to Rogers that he qualified as a committee once he received $1,000 or more in contributions, and therefore, the $5,500 he contributed qualified his committee. Rogers stated that he earned this money and did not raise it so it did not count as a contribution, and therefore, he did not have a filing obligation.

6. I further explained that any contribution to a committee is counted toward the $1,000 threshold regardless of whether a candidate contributes their own money or receives it from other people. I asked Rogers to file his statement by the end of day. Rogers became irate and told me that the government is not entitled to know everything.

7. Rogers was so irate about having to file his statement that I wasn't able to discuss the situation with him any further.

8. On Friday November 20, 2015, I spoke with Rogers' filing officer and she said he had not filed his outstanding pre-election statement.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct and that this declaration was executed in Sacramento County on Nov 30, 2015.

Dated: November 30 2015

[redacted]

Michael W. Hamilton
Commission Counsel, Enforcement Division
Fair Political Practices Commission

Exhibit A-13

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

December 31, 2015

CERTIFIED MAIL, RETURN RECIEPT REQUESTED

Michael Rogers, individually and
o/b/o Mike Rogers for Supervisor 2012
[redacted]

NOTICE OF INTENT TO ENTER DEFAULT DECISION AND ORDER

Re: In the Matter of Michael Rogers and Mike Rogers for Supervisor 2012

Dear Mr. Rogers:

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 **January 21, 2016** and decide whether to impose the maximum administrative penalty in the amount of **Five Thousand Five Dollars ($5,000)** against you.

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

Following the issuance of a Report in Support of a Finding of Probable Cause, the Commission's Hearing Officer found probable cause that you committed a violation of the Political Reform Act's campaign reporting provisions. Thereafter, the Hearing Officer issued an Accusation against you on the same violation. The Accusation was personally served on you on November 12, 2014. 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 **January 21, 2016**, the Commission may impose an administrative penalty against you in the amount of **$5,000**, the maximum penalty for the violation.

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 **January 21, 2016** meeting. Please contact me immediately if you wish to enter into a negotiated settlement.

You may contact me directly at (916) 322-5772.

Sincerely,

[redacted]

Michael W. Hamilton
Commission Counsel
Enforcement Division

Enclosures