

**FPPC No. 12/321, In the matter of Charles R. "Chuck" Reed, San Jose Fiscal Reforms, Mayor Reed, Chamber PAC and Issues Mobilization PAC Proponents, and Benjamin J. Roth**

**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**

James R. Sutton, Esq.  
Jesse A. Mainardi, Esq.  
The Sutton Law Firm  
o/b/o Charles R. "Chuck" Reed, San Jose Fiscal Reforms, Mayor Reed, Chamber PAC And  
Issues Mobilization PAC Proponents, and Benjamin J. Roth  
150 Post Street, Suite 450  
San Francisco, CA 94108

**(By Personal Service) On Wednesday, August 28, 2013, at approximately 2:30 p.m., I personally served:**

Angela Brereton, Senior Commission Counsel, at 428 J Street, Suite 700, Sacramento, CA 95814.  
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 August 28, 2013.

  
Kelli Breton

1 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

2 STATE OF CALIFORNIA

3  
4 In the Matter of ) FPPC No. 12/761  
5 )  
6 CHARLES R. "CHUCK" REED, ) FINDING OF PROBABLE CAUSE AND  
7 SAN JOSÉ FISCAL REFORMS, MAYOR ) ORDER TO PREPARE AND SERVE AN  
8 REED, CHAMBER PAC AND ISSUES ) ACCUSATION  
9 MOBILIZATION PAC PROPONENTS, )  
10 and BENJAMIN J. ROTH, )  
11 )  
12 ) Gov. Code § 83115.5  
13 )  
14 Respondents. )

15 By means of a Report in Support of a Finding Probable Cause, dated August 16, 2013, a  
16 Response to the Report in Support of a Finding Probable Cause, dated August 20, 2013, and a Reply To  
17 Respondents' Response To Probable Cause Report, dated August 26, 2013, the parties submitted the  
18 above-entitled matter to the General Counsel for a determination of Probable Cause. As set forth in the  
19 documents provided, the Enforcement Division served a Report in Support of a Finding of Probable  
20 Cause (the "Report") upon Respondents Charles R. "Chuck" Reed, San José Fiscal Reforms, Mayor  
21 Reed, Chamber PAC and Issues Mobilization PAC Proponents, and Benjamin J. Roth concerning this  
22 matter on August 16, 2013. Respondents waived their right to the 21-day notice requirement as stated in  
23 Section 83115.5 and Regulation 18361.4, subdivision (b), and served their Response to the Report on  
24 August 20, 2013. The Enforcement Division served a Reply To Respondents' Response To Probable  
25 Cause Report And Request For A Finding Of Probable Cause And An Order That An Accusation Be  
26 Prepared And Served on August 26, 2013.

27 In making a probable cause determination, it is the duty of the General Counsel of the  
28 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.

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

1 that the proposed respondent(s) committed or caused a violation.” (Regulation 18361.4,  
2 subd. (e).)

3 The Probable Cause Report served on Respondents alleges one violation of the  
4 Political Reform Act was committed, as follows:

5 **COUNT 1:** On or about September 24, 2012, Respondent Charles R. “Chuck” Reed,  
6 Respondent San José Fiscal Reforms, Mayor Reed, Chamber PAC and  
7 Issues Mobilization PAC Proponents, and Respondent Benjamin J. Roth,  
8 used funds of Respondent Committee, Respondent Reed’s candidate  
9 controlled committee, to make a \$100,000 contribution to San José  
10 Reform Committee Supporting Rose Herrera for City Council 2012, a  
11 primarily formed committee supporting Rose Herrera for San José City  
12 Council, for the purpose of making independent expenditures to support  
13 Rose Herrera and to oppose Jimmy Nguyen for City Council in the  
14 November 2012 election, in violation of Government Code Section 85501.

15 Based on the all documents submitted to me, I find that notice has been given to Respondents  
16 Charles R. “Chuck” Reed, San José Fiscal Reforms, Mayor Reed, Chamber PAC and Issues  
17 Mobilization PAC Proponents, and Benjamin J. Roth of these proceedings. I further find, based on the  
18 Report in Support of a Finding of Probable Cause, the Response to the Report in Support of a Finding of  
19 Probable Cause, and the Reply To Respondents’ Response To Probable Cause Report that there is  
20 probable cause to believe Respondents Charles R. “Chuck” Reed, San José Fiscal Reforms, Mayor  
21 Reed, Chamber PAC and Issues Mobilization PAC Proponents, and Benjamin J. Roth violated the  
22 Political Reform Act as alleged in Count 1 as identified above.

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

25 IT IS SO ORDERED.

26 Dated: 8/28/13

27   
28 Zackery P. Morazzini  
General Counsel