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BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

In the Matter of) OAH No. 2024110448
) FPPC No. 2018/00789
)
THE CITY OF NORCO and ANDY OKORO) COMPLAINANT’S REPLY BRIEF IN
) OPPOSITION TO THE PROPOSED DECISION
)
Respondents.) Hearing Judge: Deena R. Ghaly
) Hearing Date: March 24 and 25, 2025
) Hearing Time: 9:00 a.m.
) Hearing Place: Via videoconference
) 320 W. Fourth Street, Suite 630
) Los Angeles, CA 90013

This matter came before Administrative Law Judge Deena R. Ghaly of the Office of Administrative Hearings (“OAH”), on March 24 and 25, 2025, via videoconference. Ghaly issued a Proposed Decision on May 6, 2025. Complainant, the Enforcement Division of the Fair Political Practices Commission (“Commission”), having submitted an Opening Brief and received Briefs in Support of the Proposed Decision from Respondent City of Norco and Respondent Andy Okoro, submits the following Reply Brief.

I. INTRODUCTION

This reply is intended to address the issue before the Commission: whether to adopt or reject the proposed decision of the Administrative Law Judge. The proposed decision relies on an analysis of *Vargas*

1 and the relevant regulation to make its findings and states, “Without a basis for finding liability under the
2 PRA, other arguments raised by respondents... are moot.” (See Proposed Decision, page 25, paragraph
3 14.) However, Respondents’ Briefs raised additional arguments that were made during the administrative
4 hearing process that were not addressed, considered, or evaluated by the proposed decision. These include:
5 the relevance of the official title of the ballot measure, the unchallenged ballot question, the authority of
6 the FPPC to promulgate Regulations 18420.1 and 18901.1, the constitutionality of the FPPC’s regulations,
7 and the individual liability of Okoro. As these are not addressed directly by the proposed decision, they
8 are not relevant at this juncture. Complainant reserves the right to respond to those arguments, as
9 appropriate, in subsequent briefing or at hearing if the Commission rejects the proposed decision.

10 As discussed in Complainant’s opening brief, Complainant reiterates that the proposed decision
11 overly relies on *Vargas* and makes factual findings not supported by the evidence in the record.

12 **II. DISCUSSION**

13 **a. Relevance of Vargas**

14 Complainant acknowledges that the Regulations at issue were promulgated in response to and
15 informed by the *Vargas* decision. However, the court in *Vargas* was considering the constitutionality of
16 the use of public funds. The Commission does not have jurisdiction over this specific issue, except in the
17 narrower instance of prohibiting a mass mailing or newsletter sent at public expense. The regulations at
18 issue are specific to the realm of campaign finance and transparency, including the legal question as to
19 when a communication can be considered an expenditure that is regulated by the Political Reform Act.

20 The Commission should be the authority on the interpretation and application of those Regulations.
21 In prior Commission meetings, in response to stipulated agreements and Opinions issued by the
22 Commission, the Commission has expressed great interest in bringing strict enforcement to this area and
23 addressing the public’s concern with respect to mass mailings sent to residents that advocate for or against
24 ballot measures or candidates.

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Both Respondents and the Proposed Decision overly rely on the notion that because there were other mailings related to the equestrian lifestyle of Norco, this allows an inference that the mailings are consistent in pattern and style. First, when considering a pattern of communication, the Commission should only consider those mailings distributed prior to the mailing at issue. Subsequent mailings should not be considered relevant to the question of whether the mailing at issue was a break in the pattern of communication. Second, the acknowledgement of the equestrian lifestyle found in Norco is distinct from an appeal to preserve it. One is factual or informative, but by appealing to the nostalgia, pride, and appeal of that Equestrian lifestyle and framing that lifestyle as being at risk because of budgetary concerns is a break in the pattern of communication. In this way, the letter from the city manager sought to invoke an emotional response and urge voters to vote in favor of the sales tax to preserve the equestrian lifestyle of Norco.

1 **c. Findings Not Supported by the Evidence**

2 Respondents rebut Complainant’s arguments about the factual findings being in error by ascribing
3 the arguments as a “non-issue.” Complainant argues that the language used by the Proposed Decision to
4 make factual findings is both relevant and important. The Proposed Decision relies on findings that are
5 not supported by the evidence, and this error is relevant to the final legal conclusion reached by the
6 Proposed Decision. The Proposed Decision repeatedly emphasizes that the mailer at issue was a
7 “newsletter” or was part of a regularly issued mailing and draws heavy comparisons to the communication
8 in *Vargas*. By finding that the mailer at issue was part of a regular newsletter, the Proposed Decision finds
9 that the mailer was more like the mailer in *Vargas* – part of a normal communication pattern for the City.
10 However, Complainant reiterates that the body of evidence supports a finding that the mailer at issue was
11 a departure from the prior pattern of communication and style.

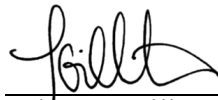
12 **III. CONCLUSION**

13 The Enforcement Division respectfully requests and recommends that the Commission reject the
14 proposed decision and adopt a decision that is consistent with the evidence in the record and that accurately
15 applies the relevant law.

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17 Dated: June 25, 2025

18 **FAIR POLITICAL PRACTICES COMMISSION**

19 By: Angela J. Brereton
 Assistant Chief of Enforcement

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 Theresa Gilbertson
 Senior Commission Counsel