

1 GALENA WEST  
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6 Attorneys for Complainant

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

11 In the Matter of

12  
13 **BRENDA LEWIS AND LEWIS FOR WATER**  
14 **BOARD 2013,**

15  
16 Respondent.

) FPPC No.: 16/322

) **DEFAULT DECISION AND**  
17 **ORDER**

) (Government Code Sections 11506  
18 and 11520)

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

22 Pursuant to the California Administrative Procedure Act,<sup>1</sup> Brenda Lewis (“Lewis”) and Lewis for  
23 Water Board 2013 (“Committee”) has been served with all of the documents necessary to conduct an  
24 administrative hearing regarding the above-captioned matter, including the following:

- 25 1. An Order Finding Probable Cause;
- 26 2. An Accusation;
- 27 3. A Notice of Defense (Two Copies per Respondent);
- 28 4. A Statement to Respondent; and,

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

1 5. Copies of Sections 11506, 11507.5, 11507.6 and 11507.7 of the Government Code.

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

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

14  
15 Dated: 27 Feb 18

  
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Galena West, Chief of Enforcement  
Fair Political Practices Commission

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**ORDER**

The Commission issues this Default Decision and Order and imposes an administrative penalty of \$28,000 upon Brenda Lewis and Lewis for Water Board 2013, payable to the “General Fund of the State of California.”

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

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

\_\_\_\_\_  
Joann Remke, Chair  
Fair Political Practices Commission

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Lewis for Water Board 2013 (“Committee”) is a candidate-controlled committee formed to support the election of respondent Brenda Lewis (“Lewis”) to the Monterey Peninsula Water Management District Board of Directors. Lewis served as treasurer of the Committee and was successful in the November 5, 2013 General Election and has remained in office since that time.

The Political Reform Act (the “Act”)<sup>1</sup> requires candidate-controlled committees to file campaign statements to disclose their contributions received and expenditures made. This matter arose out of a referral sent to the Fair Political Practices Commission’s (“Commission”) Enforcement Division by the Secretary of State’s Office (“SOS”) for the Committee’s non-payment of annual fees.

As a controlled committee, the Committee and Lewis had a duty to file semiannual campaign statements. The Committee and Lewis failed to file seven campaign statements between October 21, 2013 and December 31, 2016.

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

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

Included among the rights afforded a respondent under the APA, is the right to file the Notice of Defense with the Commission within 15 days after service of the accusation, by which the respondent may (1) request a hearing; (2) object to the accusation on the ground it does not state acts or omissions upon which the agency may proceed; (3) object to the form of the accusation on the ground that it is so indefinite or certain that the respondent cannot identify the transaction or prepare a defense; (4) admit the accusation in whole or in part; (5) present new matter by way

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

<sup>2</sup> Section 83116.

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

<sup>4</sup> Section 11503.

of a defense; or (6) object to the accusation on the ground that, under the circumstances, compliance with a Commission regulation would result in a material violation of another department's regulation affecting substantive rights.<sup>5</sup>

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

## PROCEDURAL REQUIREMENTS AND HISTORY

### A. Initiation of the Administrative Action

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

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

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

Documents supporting the procedural history are included in the attached Certification of Records ("Certification") filed herewith at Exhibit 1, A-1 through A-9, and incorporated herein by reference.

In accordance with Sections 83115.5 and 91000.5, the Enforcement Division initiated the administrative action against the Committee and Lewis in this matter by serving them on

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

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

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

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

<sup>9</sup> Section 83115.5.

<sup>10</sup> Section 83115.5.

<sup>11</sup> Section 91000.5.

September 6, 2017 with a Report in Support of a Finding of Probable Cause (the "Report") (Certification, Exhibit A-1) by certified mail, return receipt requested.<sup>12</sup> (Certification, Exhibit A-2.) The administrative action commenced on September 6, 2017, the date Lewis was served via certified mail (Certification, Exhibit A-2), and the five-year statute of limitations was effectively tolled on this date.

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

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

Because the Committee and Lewis 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 the Hearing Officer of the Commission on October 12, 2017. (Certification, Exhibit A-4.)

On October 13, 2017, Hearing Officer Sukhi Brar, Senior Legal Counsel, Legal Division issued a Finding of Probable Cause and an Order to Prepare and Serve an Accusation on the Committee and Lewis. (Certification, Exhibit A-5.)

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

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

Section 11503 states:

A hearing to determine whether a right, authority, license, or privilege should be revoked, suspended, limited, or conditioned shall be initiated by filing an accusation or District Statement of Reduction in Force. The accusation or District Statement of Reduction in Force shall be a written statement of charges that shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his or her defense. It shall specify the statutes and rules that the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of those statutes and rules. The accusation or District Statement of Reduction in Force

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<sup>12</sup> Section 83115.5.

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

shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

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

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

On December 18, 2017, the Commission's Chief of Enforcement, Galena West, issued an Accusation against the Committee and Lewis in this matter. (Certification, Exhibit A-6.) In accordance with Section 11505, the Accusation and accompanying information, consisting of a Statement to Respondent, two copies of a Notice of Defense Form, copies of Government Code Sections 11506, 11507.5, 11507.6 and 11507.7 were personally served on Lewis on December 20, 2017. (Certification, Exhibit A-8.)

Along with the Accusation, the Enforcement Division served Lewis with a "Statement to Respondent," which notified him that she 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, she would be deemed to have waived the right to a hearing. (Certification, Exhibit A-7.) The Committee and Lewis did not file a Notice of Defense within the statutory time period, which ended on January 4, 2018.

As a result, on February 27, 2018, the Enforcement Division sent a letter to the Committee and Lewis advising that this matter would be submitted for a Default Decision and Order at the Commission's public meeting scheduled for April 19, 2018. (Certification, Exhibit A-9.) A copy of the Default Decision and Order, and this accompanying Exhibit 1 with attachments, was included with the letter.

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

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

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

## SUMMARY OF THE LAW

An express purpose of the Act is to ensure voters are fully informed and improper practices are inhibited by requiring all candidates, as well as the committees that support or oppose them, to disclose all contributions and expenditures made throughout a campaign.<sup>17</sup> In furtherance of this purpose, the Act requires candidate-controlled committees to file campaign statements at specific times disclosing information regarding contributions received and expenditures made.<sup>18</sup>

Controlled committees must file semiannual campaign statements each year no later than July 31 for the reporting period ending on June 30 and no later than January 31 of the following year for the reporting period ending on December 31.<sup>19</sup> When a filing deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline is extended to the next business day.<sup>20</sup>

## SUMMARY OF THE EVIDENCE

Lewis formed a Committee to support her run for Director of District 1 for the Monterey Peninsula Water Management District Board of Directors in 2011 and redesignated the Committee for her 2013 race on d September 25, 2013 when the statement was filed with the Secretary of State. In 2011, Lewis won the seat in a special election to fill a vacant seat and was successful again in the November 5, 2013 General Election. The Committee filed a pre-election statement for the period of July 1, 2013 to September 21, 2013 on September 30, 2013, and for the period of September 22, 2013 to October 20, 2013 on October 25, 2013. The Committee later filed an amended statement for the period of September 22, 2013 to October 20, 2013 on October 28, 2013.

At the time of the last campaign statement, the Committee had a reported balance of \$2,949.26. The Committee has failed to file any subsequent campaign statements despite remaining an open committee.

### Summary of Contact

Overall, the Enforcement Division has been in contact with Lewis at least 23 times regarding this matter. To date, Lewis has failed to file the outstanding campaign statements, despite repeated assurances that she would fulfil her filing obligation.

The contacts are as follows:

1. May 3, 2016 – Sent letter to a new address but received no response.
2. August 16, 2016 – Sent an email to candidate, Lewis.
3. August 23, 2016 – Sent an email to candidate, Lewis.

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<sup>17</sup> Section 81002, subd. (a).

<sup>18</sup> Sections 84200 through 84225.

<sup>19</sup> Section 84200, subd. (a).

<sup>20</sup> Regulation 18116.



4. August 31, 2016 – Left a voice mail message for Lewis.
5. September 13, 2016 – Left a voice mail message for Lewis.
6. September 29, 2016 – Sent an email and Lewis responded.
7. October 6, 2016 – Lewis sent an email indicating that she would file the outstanding statements
8. August 2, 2017 – Sent letter to Lewis and assistant treasurer to reestablish contact. The assistant treasurer responded and provided additional contact information for Lewis.
9. August 2, 2017 – Sent email to candidate, Lewis.
10. August 8, 2017 – Sent email to a different email address for Lewis
11. August 9, 2017 – Enforcement Division left a voice mail message for Lewis.
12. August 14, 2017 – Lewis sent an email to Enforcement Division; providing her correct address and indicating that she would file the outstanding statements.
13. September 6, 2017 – Served Lewis with a PC Report.
14. September 14, 2017 – Lewis sent an email asking for copies of her previous campaign statements. On the same day, Lewis was provided with a link to where the campaign statements were available online.
15. September 21, 2017 – Lewis sent an email indicating that she needed assistance for how to file. She was provided with contact information for the Legal Division.
16. October 2, 2017 – Enforcement Division sent an email to Lewis inquiring as to the status of the outstanding statements.
17. October 12, 2017 – Sent letter to candidate, Lewis, regarding request for finding of Probable Cause.
18. October 13, 2017 – Legal Division served the Finding of Probable Cause and Order to file Accusation.
19. October 26, 2017 – Enforcement Division sent an email to Lewis.
20. October 30, 2017 – Left a voice mail message for Lewis.
21. December 20, 2017 – Lewis was served with Accusation.
22. January 10, 2018 – Enforcement Division sent an email to Lewis and left a voice mail.
23. February 27, 2018 – Sent Notice of Intent to Enter into Default, Decision, and Order.

## VIOLATIONS

Lewis committed seven violations of the Act, as follows:

### COUNT 1

#### **Failure to Timely File a Semiannual Campaign Statement by January 31, 2014**

The Committee and Lewis had a duty to file a semiannual campaign statement for the reporting period of October 21, 2013 through December 31, 2013 by January 31, 2014. By failing to timely file this statement, the Committee and Lewis violated Government Code Section 84200.

COUNT 2

**Failure to Timely File a Semiannual Campaign Statement by July 31, 2014**

The Committee and Lewis had a duty to file a semiannual campaign statement for the reporting period of January 1, 2014 through June 30, 2014 by July 31, 2014. By failing to timely file this statement, the Committee and Lewis violated Government Code Section 84200.

COUNT 3

**Failure to Timely File a Semiannual Campaign Statement by February 2, 2015**

The Committee and Lewis had a duty to file a semiannual campaign statement for the reporting period of July 1, 2014 through December 31, 2014 by February 2, 2015. By failing to timely file this statement, the Committee and Lewis violated Government Code Section 84200.

COUNT 4

**Failure to Timely File a Semiannual Campaign Statement by July 31, 2015**

The Committee and Lewis had a duty to file a semiannual campaign statement for the reporting period of January 1, 2015 through June 30, 2015 by July 31, 2015. By failing to timely file this statement, the Committee and Lewis violated Government Code Section 84200.

COUNT 5

**Failure to Timely File a Semiannual Campaign Statement by February 1, 2016**

The Committee and Lewis had a duty to file a semiannual campaign statement for the reporting period of July 1, 2015 through December 31, 2015 by February 1, 2016. By failing to timely file this statement, the Committee and Lewis violated Government Code Section 84200.

COUNT 6

**Failure to Timely File a Semiannual Campaign Statement by August 1, 2016**

The Committee and Lewis had a duty to file a semiannual campaign statement for the reporting period of January 1, 2016 through June 30, 2016 by August 1, 2016. By failing to timely file this statement, the Committee and Lewis violated Government Code Section 84200.

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## COUNT 7

### **Failure to Timely File a Semiannual Campaign Statement by January 31, 2017**

The Committee and Lewis had a duty to file a semiannual campaign statement for the reporting period of July 1, 2016 through December 31, 2016. By failing to timely file this statement, the Committee and Lewis violated Government Code Section 84200.

### **CONCLUSION**

This matter consists of seven counts of violating the Act, which carries a maximum administrative penalty of \$35,000.<sup>21</sup>

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of violations.<sup>22</sup>

In this matter, the Committee and Lewis failed to timely file semiannual campaign statements. The failure to comply with these filing obligations denied the public information about the Committee's activity and the disposition of the Committee's \$2,949.26 cash balance as of October 20, 2013. The Committee and Lewis are aware of the filing obligation, having filed the pre-election statements and having been contacted numerous times regarding this matter.

The Committee and Lewis have no prior history of violating the Act; however, Lewis is still in officer and her current term expires 2018.

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

- *In the Matter of Committee to Elect Marina Fraser, Marina Fraser, and Jackie M. Buckley, FPPC No. 16/140.* (The Commission approved a default decision on April 20, 2017.) The respondents, among other violations, failed to timely file eight semi-annual campaign statements. The Commission imposed a penalty of \$4,000 per count for the unfiled campaign statements. Like Lewis, Fraser remained in elected office and did not file the delinquent campaign statements, resulting in no disclosure.

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<sup>21</sup> Section 83116, subdivision (c).

<sup>22</sup> Regulation 18361.5, subdivision (d).

This case is similar to the present matter as Lewis is well aware of her obligation to file, remains in office, but has failed to file despite multiple requests and opportunities for compliance.

**PROPOSED PENALTY**

After considering the factors of Regulation 18361.5 and the penalties imposed in prior cases, a penalty of \$4,000 per count, for a total penalty of \$28,000, is recommended.



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

**CERTIFICATION OF RECORDS**

The undersigned declares and certifies as follows:

1. I am employed as a Staff Services Analyst by the California Fair Political Practices Commission (Commission). My business address is: California Fair Political Practices Commission, 1102 Q St, Ste 3000, Sacramento, CA 95811.
2. I am a duly authorized custodian of the records maintained by the Commission in the Enforcement Division. As such, I am authorized to certify copies of those records as being true and correct copies of the original business records which are in the custody of the Commission.
3. I have reviewed documents maintained in *FPPC Case No. 16/322; Brenda Lewis and Lewis for Water Board 2013*, and have caused copies to be made of documents contained therein. I certify that the copies attached hereto are true and correct copies of the documents prepared in the normal course of business and which are contained in files maintained by the Commission. The attached documents are as follows:

EXHIBIT A-1: Report in Support of a Finding of Probable Cause, dated September 1, 2017

EXHIBIT A-2: Proof of Service for the Report in Support of a Finding of Probable Cause and applicable statutes and regulations, dated September 1, 2017, and USPS Tracking Results for certified mail delivered to Respondent on September 6, 2017


EXHIBIT A-3: Cover letter to the Respondent regarding the Report in Support of a Finding of Probable Cause, memorandum describing Probable Cause Proceedings, and applicable statutes and regulations, dated September 1, 2017

EXHIBIT A-4: Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served, dated October 12, 2017

EXHIBIT A-5: Finding of Probable Cause and Order to Prepare and Serve an Accusation, dated October 13, 2017, and Proof of Service, dated October 13, 2017

- EXHIBIT A-6: Accusation, dated December 18, 2017
- EXHIBIT A-7: Statement to the Respondent, Notices of Defense, applicable statutes, and Proof of Service for Accusation and accompanying documents, dated December 18, 2017
- EXHIBIT A-8: Proof of Service on December 20, 2017 for Accusation and accompanying documents from process server, dated December 21, 2017
- EXHIBIT A-9: Notice of Intent to Enter into Default Decision and Order, dated February 27, 2018.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 27, 2018, at Sacramento, California.

  
\_\_\_\_\_  
Dominika Wojenska  
Staff Services Analyst, Enforcement Division  
Fair Political Practices Commission

**Exhibit A-1**

1 GALENA WEST  
Chief of Enforcement  
2 THERESA GILBERTSON  
Commission Counsel  
3 **FAIR POLITICAL PRACTICES COMMISSION**  
1102 Q Street, Suite 3000  
4 Sacramento, CA 95811  
Telephone: (916) 322-5660  
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant  
Enforcement Division of the Fair Political Practices Commission

8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

9 **STATE OF CALIFORNIA**

11 In the Matter of

12  
13 **BRENDA LEWIS and LEWIS FOR  
WATER BOARD 2013,**

14  
15 Respondents.

) FPPC No. 16/322  
)  
) **REPORT IN SUPPORT OF A FINDING OF  
PROBABLE CAUSE**  
)  
) Conference Date: TBA  
) Conference Time: TBA  
) Conference Location: Commission Offices  
1102 Q Street, Suite 3000  
Sacramento, CA 95811

17  
18 **INTRODUCTION**

19 Respondent Committee Lewis for Water Board 2013 (the "Committee") is a controlled committee  
20 formed to elect respondent Brenda Lewis to the Monterey Peninsula Water Management District Board  
21 of Directors.

22 The Political Reform Act (the "Act")<sup>1</sup> requires controlled committees to file two semi-annual  
23 statements each year by July 31 for the period ending June 30 and by January 31 for the period ending  
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26 <sup>1</sup> The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references  
27 are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2  
of the California Code of Regulations, and all regulatory references are to this source.



1 December 31.<sup>2</sup> The Committee has failed to file campaign statements since October 28, 2013. Each  
2 committee required to file a statement of organization must pay the Secretary of State (“SOS”) an annual  
3 \$50 fee by January 15 every year until the termination of the committee.<sup>3</sup> The Committee failed to timely  
4 pay the annual fee for 2013, 2014, 2015, and 2016.

## 5 SUMMARY OF THE LAW

6 All legal references and discussions of law pertain to the Act’s provisions as they existed in 2013–  
7 2016.

### 8 Jurisdiction

9 The Fair Political Practices Commission (the “Commission”) has administrative jurisdiction to  
10 enforce the provisions of the Act.<sup>4</sup>

### 11 Probable Cause Proceedings

12 Prior to the Enforcement Division commencing an administrative action, the General Counsel of  
13 the Commission or his/her designee (the “hearing officer”), must make a finding that there is probable  
14 cause to believe the respondent has violated the Act.<sup>5</sup> After a finding of probable cause, the Commission  
15 may hold a noticed hearing in accordance with the Administrative Procedure Act<sup>6</sup> to determine whether  
16 violations occurred and levy an administrative penalty of up to \$5,000 for each violation.<sup>7</sup>

### 17 Standard for Finding Probable Cause

18 To make a finding of probable cause, the hearing officer must be presented with sufficient  
19 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion,  
20 that a respondent committed or caused a violation.<sup>8</sup>

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24 <sup>2</sup> Section 84200.

<sup>3</sup> Section 84101.5, subd. (c).

<sup>4</sup> Section 83116.

<sup>5</sup> Section 83115.5, and Regulations 18361 and 18361.4.

<sup>6</sup> Section 11500, et seq.

<sup>7</sup> Section 83116, and Regulation 18361.4, subd. (e).

<sup>8</sup> Section 18361.4, subd. (e).

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

2 When enacting the Political Reform Act, the people of the state of California found and declared  
3 that previous laws regulating political practices suffered from inadequate enforcement by state and local  
4 authorities.<sup>9</sup> To that end, the Act must be liberally construed to achieve its purposes.<sup>10</sup>

5 There are many purposes of the Act. Among these purposes is to ensure voters are fully informed  
6 and improper practices are inhibited by requiring all political candidates, as well as the committees that  
7 support or oppose them, to disclose all contributions and expenditures made throughout a campaign.<sup>11</sup>  
8 Another is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”<sup>12</sup>

9 Semi-Annual Statements

10 The Act requires a controlled committee to file semi-annual statements twice per year to disclose  
11 its campaign contributions and expenditures.<sup>13</sup> A committee must file a semi-annual statement for the  
12 period ending December 31 by January 31, or the next business day if the deadline falls on a weekend or  
13 holiday.<sup>14</sup>

14 Annual Fee

15 Each committee required to file a statement of organization must pay the SOS an annual \$50 fee  
16 by January 15 each year until the termination of the committee.<sup>15</sup> A committee that fails to timely pay the  
17 annual fee is subject to a penalty equal to three times the amount of the fee. The Commission is required  
18 to enforce this provision of the Act.<sup>16</sup>

19 Liability for Violations

20 Any person who violates any provision of the Act, who purposely or negligently causes any other  
21 person to violate any provision of the Act, or who aids and abets any other person in the violation  
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23 <sup>9</sup> Section 81001, subd. (h).

<sup>10</sup> Section 81003.

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

<sup>12</sup> Section 81002, subd. (f).

25 <sup>13</sup> Section 84200.

<sup>14</sup> Section 84200 subd. (a) and Regulation 18116 subd. (a).

26 <sup>15</sup> Section 84101.5, subd. (c).

<sup>16</sup> Section 84101.5, subd. (d).

1 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.<sup>17</sup> A controlling  
2 candidate is responsible for ensuring her committee complies with the requirements of the Act.<sup>18</sup>

### 3 **SUMMARY OF THE EVIDENCE**

4 The Committee qualified as a committee on or about September 19, 2013. Lewis won the  
5 general election and is currently in office. The Committee's last timely filed campaign statement was a  
6 pre-election statement covering the period from September 22, 2013 through October 20, 2013 and was  
7 filed on October 28, 2013. Since then, the Committee has failed to file any campaign statements.

8 In addition, the Committee failed to pay an annual \$50 fee to SOS for 2013, 2014, 2015, and  
9 2016 by the deadline each year, as well as the associated late penalties. SOS sent the Committee  
10 multiple notices of its failure to pay the delinquent annual fees and penalties but received no response.  
11 As a result, SOS referred the matter to the Enforcement Division.

12 On April 12, 2016 and May 3, 2016, the Enforcement Division sent letters to the Committee  
13 regarding its failure to timely file semi-annual statements and pay the outstanding \$50 annual fees. In  
14 addition, Enforcement staff attempted to reach the Committee via email on August 16, 2016, August  
15 23, 2016, and left voicemails on August 31, 2016 and September 13, 2016. The Committee responded  
16 via e-mail on September 29, 2016 and October 6, 2016, but as of this writing has still not filed the late  
17 campaign statements or paid the outstanding annual fees and late penalties to SOS.

### 18 **VIOLATIONS**

#### 19 Counts 1-7: Failure to Timely File Semi-Annual Statements

20 The Committee failed to timely file a total of seven semi-annual statements for the following  
21 periods: October 21, 2013 through December 31, 2013 by the deadline January 31, 2014; January 1,  
22 2014 through June 30, 2014 by the deadline July 31, 2014; July 1, 2014 through December 31, 2014 by  
23 the deadline February 2, 2015; January 1, 2015 through June 30, 2015 by the deadline July 31, 2015;  
24 July 1, 2015 through December 31, 2015 by the deadline February 1, 2016; January 1, 2016 through  
25

---

26 <sup>18</sup> Section 84104.

1 June 30, 2016 by the deadline August 1, 2016; and July 1, 2016 through December 31, 2016 by the  
2 deadline January 31, 2017, in violation of Section 84200.

3 Counts 8-11: Failure to Timely Pay the Annual Fee and Penalties for 2013, 2014, 2015, and 2016

4 The Committee failed to pay the \$50 annual fees for 2013, 2014, 2015, and 2016 by the due date  
5 each year, and failed to pay a penalty of \$150 for failing to timely pay the annual fees, in violation of  
6 Section 84101.5, subdivisions (c) and (d).

7 **CONCLUSION**

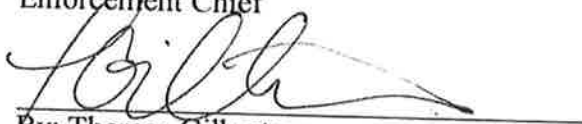
8 Probable cause exists to believe that the Committee violated the Act by failing to timely file semi-  
9 annual statements for the periods ending December 31, 2013, June 30, 2014, December 31, 2014, June  
10 30, 2015, December 31, 2015, June 30, 2016, and December 31, 2016. Probable cause also exists to  
11 believe that the Committee violated the Act by failing to pay the 2013, 2014, 2015, and 2016 annual fees  
12 and penalties. The Enforcement Division respectfully requests an order finding probable cause pursuant  
13 to Section 83115.5 and Regulation 18361.4.

14  
15 Dated: 9/1/17

16  
17 Respectfully Submitted,

18 **FAIR POLITICAL PRACTICES COMMISSION**

19 Galena West  
20 Enforcement Chief

21 

22 By: Theresa Gilbertson  
23 Commission Counsel  
24 Enforcement Division

**Exhibit A-2**

**PROOF OF SERVICE**

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

On 9/1/17, I served the following document(s):

1. Letter dated 9/1/17, from Theresa Gilbertson;
2. FPPC No. 16/322 Report in Support of a Finding of Probable Cause;
3. Probable Cause Fact Sheet;
4. Selected Sections of the California Government Code regarding Probable Cause Proceedings for the Fair Political Practices Commission; and
5. Selected Regulations of the Fair Political Practices Commission regarding Probable Cause Proceedings.

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

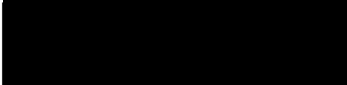
X By United States Postal Service. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the addresses listed below and placed the envelope or package for collection and mailing by certified mail, return receipt requested, following my company's ordinary business practices.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

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

**SERVICE LIST**

Certified Mail, Return Receipt Requested

Brenda Lewis  
o/b/o Lewis for Water Board 2013



I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on 9/1/17

Theresa Gilbertson

USPS TRACKING#



9590 9402 2865 7069 6587 78



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

United States  
Postal Service

\* Sender: Please print your name, address, and ZIP+4® in this box\*

17 SEP - 8 PM 2:28  
FAIR POLITICAL PRACTICES COMMISSION  
ATTN: THERESA GILBERTSON  
1102 Q ST. STE 3000  
SACRAMENTO, CA 95811

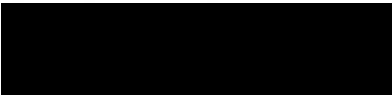


SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

BRENDA LEWIS



9590 9402 2865 7069 6587 78

2. Article Number (Transfer from previous label)

7017 0660 0001 0825 6199

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Brenda Lewis*  Agent  Addressee

B. Received by (Printed Name)

C. Date of Delivery

9/16/12

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

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery
- Priority Mail Express®

U.S. Postal Service™  
**CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

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

OFFICIAL USE

6579 5280 7000 0990 2102

**Certified Mail Fee**

\$ \_\_\_\_\_

**Extra Services & Fees (check box, add fee as appropriate)**

- Return Receipt (hardcopy) \$ \_\_\_\_\_
- Return Receipt (electronic) \$ \_\_\_\_\_
- Certified Mail Restricted Delivery \$ \_\_\_\_\_
- Adult Signature Required \$ \_\_\_\_\_
- Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postmark  
Here

**Postage**

\$ \_\_\_\_\_

**Total Postage and Fees**

\$ \_\_\_\_\_

**Sent To**

BRENDA LEWIS



**Exhibit A-3**

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DEFAULT DECISION AND ORDER FPPC NO. 16/322

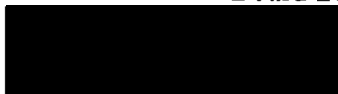


STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3000 • Sacramento, CA 95811  
(916) 322-5660 • Fax (916) 322-0886

September 1, 2017

**CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Brenda Lewis  
Lewis for Water Board 2013



**In the Matter of Lewis for Water Board 2013; FPPC No. 16/322**

Dear Ms. Lewis:

The Enforcement Division of the Fair Political Practices 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 April 12, 2016, May 3, 2016, August 2, 2017, and August 14, 2017. The enclosed Report in Support of a Finding of Probable Cause (the "Report") contains a summary of the alleged violations and the relevant law and evidence.

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

Please note that probable cause conferences are not settlement conferences. The sole purpose of a probable cause conference is to determine whether there is probable cause to believe that the Act was violated. However, settlement discussions are encouraged by the Commission and may take place at any time except during a probable cause conference. *If you are interested in reaching a settlement in this matter, please contact Theresa Gilbertson at (916) 323-6421 or [tgilbertson@fppc.ca.gov](mailto:tgilbertson@fppc.ca.gov).*

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Gilbertson', written in a cursive style.

Theresa Gilbertson  
Commission Counsel  
Enforcement Division

Enclosures

## PROBABLE CAUSE FACT SHEET

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### INTRODUCTION

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

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

### THE LAW

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

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

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

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

### THE PROCEDURE

#### Probable Cause Report

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

## **Discovery**

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

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

## **Response to Probable Cause Report**

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

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

## **Staff Reply**

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

## **Probable Cause Conference**

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

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

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

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

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

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

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

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

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

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

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

### **Continuances**

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

### **Settlements**

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

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

### **CONCLUSION**

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

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

## CALIFORNIA GOVERNMENT CODE

### Probable Cause Statutes

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

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

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

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

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

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

**Probable Cause Regulations**

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

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

**§ 18361.4. Probable Cause Proceedings**

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

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

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

(c) Response to Probable Cause Report.

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



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

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

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

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

#### **§ 18362. Access to 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**

GALENA WEST  
Chief of Enforcement  
THERESA GILBERTSON  
Commission Counsel  
**FAIR POLITICAL PRACTICES COMMISSION**  
1102 Q Street, Suite 3000  
Sacramento, CA 95811  
Telephone: (916) 323-6421  
Facsimile: (916) 322-1932

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA

In the Matter of

BRENDA LEWIS AND LEWIS FOR  
WATER BOARD 2013,

Respondent.

) FPPC No. 16/322

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

) Gov. Code § 83115.5

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

Pursuant to Section 83115.5 of the Political Reform Act (the "Act")<sup>1</sup> and Regulation 18361.4, Respondent Brenda Lewis ("Lewis") was served with a copy of a report in support of a finding of probable cause ("Report") in the above-entitled matter.<sup>2</sup> 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 Lewis on September 1, 2017 by certified mail, with a return receipt requested, and received by Lewis on September 6, 2017. A copy of the tracking information is attached as "Exhibit B."

In the cover letter, dated September 1, 2017, and the attached materials, Lewis was advised that she could respond in writing to the Report and orally present the case to the Hearing Officer at a probable cause conference to be held in Sacramento. Lewis was further advised that in order to have a probable

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

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

1 cause conference she needed to make a written request for one on or before 21 days of the date she received  
2 the Report. Additionally, Lewis was advised that if she did not request a probable cause conference, such  
3 a conference would not be held and probable cause would be determined based solely on the Report and  
4 any written response that she submitted within 21 days of the date she was served with the Report. To  
5 date, Lewis has not submitted a written response or requested a probable cause conference.

6  
7 WHEREFORE, based on the attached Report, the Enforcement Division requests a finding by the  
8 Hearing Officer that probable cause exists to believe that Lewis committed eleven (11) violations of the  
9 Act, stated as follows:

10  
11 Counts 1-7: Failure to Timely File Semi-Annual Statements

12 The Committee failed to timely file a total of seven semi-annual statements for the following  
13 periods: October 21, 2013 through December 31, 2013 by the deadline January 31, 2014; January 1, 2014  
14 through June 30, 2014 by the deadline July 31, 2014; July 1, 2014 through December 31, 2014 by the  
15 deadline February 2, 2015; January 1, 2015 through June 30, 2015 by the deadline July 31, 2015; July 1,  
16 2015 through December 31, 2015 by the deadline February 1, 2016; January 1, 2016 through June 30,  
17 2016 by the deadline August 1, 2016; and July 1, 2016 through December 31, 2016 by the deadline January  
18 31, 2017, in violation of Section 84200.

19  
20 Counts 8-11: Failure to Timely Pay the Annual Fee and Penalties for 2013, 2014, 2015, and 2016

21 The Committee failed to pay the \$50 annual fees for 2013, 2014, 2015, and 2016 by the due date  
22 each year, and failed to pay a penalty of \$150 for failing to timely pay the annual fees, in violation of  
23 Section 84101.5, subdivisions (c) and (d).

24 //

25 //

26 //

27 //



# EXHIBIT A



1 GALENA WEST  
Chief of Enforcement  
2 THERESA GILBERTSON  
Commission Counsel  
3 **FAIR POLITICAL PRACTICES COMMISSION**  
1102 Q Street, Suite 3000  
4 Sacramento, CA 95811  
Telephone: (916) 322-5660  
5 Facsimile: (916) 322-1932

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

8  
9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of

) FPPC No. 16/322

12 )  
13 **BRENDA LEWIS and LEWIS FOR**  
14 **WATER BOARD 2013,**

) **REPORT IN SUPPORT OF A FINDING OF**  
15 **PROBABLE CAUSE**

16 Respondents.

) Conference Date: TBA  
17 ) Conference Time: TBA  
18 ) Conference Location: Commission Offices  
1102 Q Street, Suite 3000  
19 Sacramento, CA 95811

20 **INTRODUCTION**

21 Respondent Committee Lewis for Water Board 2013 (the "Committee") is a controlled committee  
22 formed to elect respondent Brenda Lewis to the Monterey Peninsula Water Management District Board  
23 of Directors.

24 The Political Reform Act (the "Act")<sup>1</sup> requires controlled committees to file two semi-annual  
25 statements each year by July 31 for the period ending June 30 and by January 31 for the period ending

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

1 December 31.<sup>2</sup> The Committee has failed to file campaign statements since October 28, 2013. Each  
2 committee required to file a statement of organization must pay the Secretary of State (“SOS”) an annual  
3 \$50 fee by January 15 every year until the termination of the committee.<sup>3</sup> The Committee failed to timely  
4 pay the annual fee for 2013, 2014, 2015, and 2016.

## 5 SUMMARY OF THE LAW

6 All legal references and discussions of law pertain to the Act’s provisions as they existed in 2013–  
7 2016.

### 8 Jurisdiction

9 The Fair Political Practices Commission (the “Commission”) has administrative jurisdiction to  
10 enforce the provisions of the Act.<sup>4</sup>

### 11 Probable Cause Proceedings

12 Prior to the Enforcement Division commencing an administrative action, the General Counsel of  
13 the Commission or his/her designee (the “hearing officer”), must make a finding that there is probable  
14 cause to believe the respondent has violated the Act.<sup>5</sup> After a finding of probable cause, the Commission  
15 may hold a noticed hearing in accordance with the Administrative Procedure Act<sup>6</sup> to determine whether  
16 violations occurred and levy an administrative penalty of up to \$5,000 for each violation.<sup>7</sup>

### 17 Standard for Finding Probable Cause

18 To make a finding of probable cause, the hearing officer must be presented with sufficient  
19 evidence to lead a person of ordinary caution and prudence to believe, or entertain a strong suspicion,  
20 that a respondent committed or caused a violation.<sup>8</sup>

21 ///

22 ///

23 \_\_\_\_\_  
<sup>2</sup> Section 84200.

24 <sup>3</sup> Section 84101.5, subd. (c).

25 <sup>4</sup> Section 83116.

26 <sup>5</sup> Section 83115.5, and Regulations 18361 and 18361.4.

27 <sup>6</sup> Section 11500, et seq.

28 <sup>7</sup> Section 83116, and Regulation 18361.4, subd. (e).

<sup>8</sup> Section 18361.4, subd. (e).

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

2 When enacting the Political Reform Act, the people of the state of California found and declared  
3 that previous laws regulating political practices suffered from inadequate enforcement by state and local  
4 authorities.<sup>9</sup> To that end, the Act must be liberally construed to achieve its purposes.<sup>10</sup>

5 There are many purposes of the Act. Among these purposes is to ensure voters are fully informed  
6 and improper practices are inhibited by requiring all political candidates, as well as the committees that  
7 support or oppose them, to disclose all contributions and expenditures made throughout a campaign.<sup>11</sup>  
8 Another is to provide adequate enforcement mechanisms so that the Act will be "vigorously enforced."<sup>12</sup>

9 Semi-Annual Statements

10 The Act requires a controlled committee to file semi-annual statements twice per year to disclose  
11 its campaign contributions and expenditures.<sup>13</sup> A committee must file a semi-annual statement for the  
12 period ending December 31 by January 31, or the next business day if the deadline falls on a weekend or  
13 holiday.<sup>14</sup>

14 Annual Fee

15 Each committee required to file a statement of organization must pay the SOS an annual \$50 fee  
16 by January 15 each year until the termination of the committee.<sup>15</sup> A committee that fails to timely pay the  
17 annual fee is subject to a penalty equal to three times the amount of the fee. The Commission is required  
18 to enforce this provision of the Act.<sup>16</sup>

19 Liability for Violations

20 Any person who violates any provision of the Act, who purposely or negligently causes any other  
21 person to violate any provision of the Act, or who aids and abets any other person in the violation  
22

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

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

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

26 <sup>12</sup> Section 81002, subd. (f).

27 <sup>13</sup> Section 84200.

28 <sup>14</sup> Section 84200 subd. (a) and Regulation 18116 subd. (a).

<sup>15</sup> Section 84101.5, subd. (c).

<sup>16</sup> Section 84101.5, subd. (d).

1 of any provision of the Act, is liable for administrative penalties up to \$5,000 per violation.<sup>17</sup> A controlling  
2 candidate is responsible for ensuring her committee complies with the requirements of the Act.<sup>18</sup>

### 3 **SUMMARY OF THE EVIDENCE**

4 The Committee qualified as a committee on or about September 19, 2013. Lewis won the  
5 general election and is currently in office. The Committee's last timely filed campaign statement was a  
6 pre-election statement covering the period from September 22, 2013 through October 20, 2013 and was  
7 filed on October 28, 2013. Since then, the Committee has failed to file any campaign statements.

8 In addition, the Committee failed to pay an annual \$50 fee to SOS for 2013, 2014, 2015, and  
9 2016 by the deadline each year, as well as the associated late penalties. SOS sent the Committee  
10 multiple notices of its failure to pay the delinquent annual fees and penalties but received no response.  
11 As a result, SOS referred the matter to the Enforcement Division.

12 On April 12, 2016 and May 3, 2016, the Enforcement Division sent letters to the Committee  
13 regarding its failure to timely file semi-annual statements and pay the outstanding \$50 annual fees. In  
14 addition, Enforcement staff attempted to reach the Committee via email on August 16, 2016, August  
15 23, 2016, and left voicemails on August 31, 2016 and September 13, 2016. The Committee responded  
16 via e-mail on September 29, 2016 and October 6, 2016, but as of this writing has still not filed the late  
17 campaign statements or paid the outstanding annual fees and late penalties to SOS.

### 18 **VIOLATIONS**

#### 19 Counts 1-7: Failure to Timely File Semi-Annual Statements

20 The Committee failed to timely file a total of seven semi-annual statements for the following  
21 periods: October 21, 2013 through December 31, 2013 by the deadline January 31, 2014; January 1,  
22 2014 through June 30, 2014 by the deadline July 31, 2014; July 1, 2014 through December 31, 2014 by  
23 the deadline February 2, 2015; January 1, 2015 through June 30, 2015 by the deadline July 31, 2015;  
24 July 1, 2015 through December 31, 2015 by the deadline February 1, 2016; January 1, 2016 through

25  
26 <sup>18</sup> Section 84104.

1 June 30, 2016 by the deadline August 1, 2016; and July 1, 2016 through December 31, 2016 by the  
2 deadline January 31, 2017, in violation of Section 84200.

3 Counts 8-11: Failure to Timely Pay the Annual Fee and Penalties for 2013, 2014, 2015, and 2016

4 The Committee failed to pay the \$50 annual fees for 2013, 2014, 2015, and 2016 by the due date  
5 each year, and failed to pay a penalty of \$150 for failing to timely pay the annual fees, in violation of  
6 Section 84101.5, subdivisions (c) and (d).

7 **CONCLUSION**

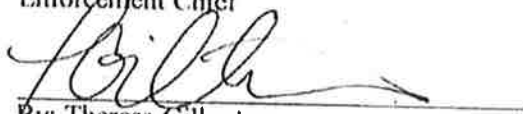
8 Probable cause exists to believe that the Committee violated the Act by failing to timely file semi-  
9 annual statements for the periods ending December 31, 2013, June 30, 2014, December 31, 2014, June  
10 30, 2015, December 31, 2015, June 30, 2016, and December 31, 2016. Probable cause also exists to  
11 believe that the Committee violated the Act by failing to pay the 2013, 2014, 2015, and 2016 annual fees  
12 and penalties. The Enforcement Division respectfully requests an order finding probable cause pursuant  
13 to Section 83115.5 and Regulation 18361.4.

14  
15 Dated: 9/1/17

16  
17 Respectfully Submitted,

18 **FAIR POLITICAL PRACTICES COMMISSION**

19 Galena West  
20 Enforcement Chief

21 

22 By: Theresa Gilbertson  
23 Commission Counsel  
24 Enforcement Division

# EXHIBIT B

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

BRENDA LEWIS



9590 9402 2865 7069 6587 78

2 Article Number (Transfer from service label)

7017 0660 0001 0825 6199

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Brenda Lewis*  Agent  
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

9/16/12

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

3. Service Type

- |   |   |
|---|---|
| <input type="checkbox"/> Adult Signature                                  | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery              | <input type="checkbox"/> Registered Mail™                           |
| <input type="checkbox"/> Certified Mail®                                  | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery               | <input checked="" type="checkbox"/> Return Receipt for Merchandise  |
| <input type="checkbox"/> Collect on Delivery                              | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery          | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Registered Mail Restricted Delivery (over \$500) |   |

Domestic Return Receipt

**Exhibit A-5**



1 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

2 STATE OF CALIFORNIA

3  
4 In the Matter of

5 BREND A LEWIS and LEWIS FOR  
6 WATER BOARD 2013,

7 Respondent.

) FPPC No. 16/322

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

) Gov. Code § 83115.5  
)  
)

9 By means of an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation  
10 Be Prepared and Served, dated October 12, 2017, the Enforcement Division submitted the above-entitled  
11 matter to the Hearing Officer for a determination of Probable Cause. As set forth in the Ex Parte Request  
12 for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served (Ex Parte  
13 Request), the Enforcement Division served a Report in Support of a Finding of Probable Cause (PC  
14 Report) on Respondent Brenda Lewis concerning this matter on September 6, 2017, by certified mail,  
15 return receipt requested. Accompanying the PC Report was a packet of materials that informed Lewis of  
16 her right to file a written response to the PC Report and to request a probable cause conference within 21  
17 days following service of the PC Report. During the 21 days that followed service of the PC Report, Lewis  
18 did not file a response to the PC Report or request a probable cause conference. Pursuant to California  
19 Code of Regulations title 2, section 18361.4, determination of probable cause may be made solely on  
20 papers submitted when the respondent does not request a probable cause conference.<sup>1</sup>

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

25  
26  
27 <sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. The regulations of the  
28 Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of  
Regulations.

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

4 The PC Report served on Lewis and the subsequent Ex Parte Request in this matter alleges eleven  
5 (11) violations of the Political Reform Act were committed, as follows:

6  
7 Counts 1-7: Failure to Timely File Semi-Annual Statements

8 The Committee failed to timely file a total of seven semi-annual statements for the following  
9 periods: October 21, 2013 through December 31, 2013 by the deadline January 31, 2014; January 1, 2014  
10 through June 30, 2014 by the deadline July 31, 2014; July 1, 2014 through December 31, 2014 by the  
11 deadline February 2, 2015; January 1, 2015 through June 30, 2015 by the deadline July 31, 2015; July 1,  
12 2015 through December 31, 2015 by the deadline February 1, 2016; January 1, 2016 through June 30,  
13 2016 by the deadline August 1, 2016; and July 1, 2016 through December 31, 2016 by the deadline January  
14 31, 2017, in violation of Section 84200.

15  
16 Counts 8-11: Failure to Timely Pay the Annual Fee and Penalties for 2013, 2014, 2015, and 2016

17 The Committee failed to pay the \$50 annual fees for 2013, 2014, 2015, and 2016 by the due date  
18 each year, and failed to pay a penalty of \$150 for failing to timely pay the annual fees, in violation of  
19 Section 84101.5, subdivisions (c) and (d).

20 //

21 //

22 //

23 //

24 //

25 //

26 //

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

1 Based on the Ex Parte Request given to me, I find that notice has been given to Lewis.<sup>3</sup> I further  
2 find, based on the PC Report and the Ex Parte Request, that there is probable cause to believe Lewis  
3 violated the Political Reform Act as alleged in Counts 1-11, as identified above.

4 I therefore direct that the Enforcement Division issue an accusation against Lewis in accordance  
5 with this finding.

6  
7 IT IS SO ORDERED.

8  
9 Dated: 10/13/17



10  
11 Sukhi Brar, Hearing Officer  
12 Fair Political Practices Commission  
13  
14  
15  
16  
17  
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20  
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22  
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25  
26  
27

28  
<sup>3</sup> Government Code § 83115.5; Cal. Code Reg., tit. 2, §18361.4, subd. (b).

**FPPC No. 16/322, In the matter of Brenda Lewis and Lewis for Water Board 2013**

**PROOF OF SERVICE**

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

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

**MANNER OF SERVICE**

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

**SERVICE LIST**

Ms. Brenda Lewis  


**(By Personal Service) On Friday, October 13, 2017, at approximately 11:00 a.m., I personally served:**

Theresa Gilbertson, Commission Counsel, at 1102 Q Street, Suite 3000, Sacramento, CA 95811.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this document is executed at Sacramento, California, on October 13, 2017.



Sasha Linker

**Exhibit A-6**

---

DEFAULT DECISION AND ORDER FPPC NO. 16/322

1 GALENA WEST  
Chief of Enforcement  
2 THERESA GILBERTSON  
Commission Counsel  
3 **FAIR POLITICAL PRACTICES COMMISSION**  
1102 Q St, Suite 3000  
4 Sacramento, CA 95811  
Telephone: (916) 323-6421  
5 Facsimile: (916) 322-1932

6 Attorneys for Complainant.

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

10  
11 In the Matter of ) FPPC No. 16/322  
12 )  
13 BRENDA LEWIS AND LEWIS FOR ) **ACCUSATION**  
14 WATER BOARD 2013, )  
15 Respondents. ) (Gov. Code §11503)  
16 )  
17 )

18 Complainant, the Enforcement Division of the Fair Political Practices Commission, after a finding  
19 of probable cause pursuant to Government Code section 83115.5, alleges the following:

20 **JURISDICTION**

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

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



1 year for the reporting period ending December 31.<sup>5</sup> When a filing deadline falls on a Saturday, Sunday,  
2 or official state holiday, the filing deadline is extended to the next business day.<sup>6</sup>

3 **B. Annual Fee**

4 10. Each committee required to file a statement of organization must pay the Secretary of State  
5 an annual \$50 fee each year until the termination of the committee.<sup>7</sup> A committee that fails to timely pay  
6 the annual fee is subject to a penalty equal to three times the amount of the fee. The Commission is  
7 required to enforce this provision of the Act.<sup>8</sup>

8 **C. Factors to be Considered by the Fair Political Practices Commission**

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

18 **GENERAL FACTS**

19 12. The Committee qualified as a recipient committee on or about September 19, 2013  
20 according to a filed statement of organization.

21 13. Lewis formed the Committee to support her run for Director of District 1 for the Monterey  
22 Peninsula Water Management District Board of Directors. She had previously won the seat in 2011 in a  
23 special election to fill a vacant seat and was successful in the November 5, 2013 General Election.

24 14. The Committee filed a pre-election statement for the period of July 1, 2013 to September  
25 21, 2013 on September 30, 2013, and for the period of September 22, 2013 to October 20, 2013 on October

26 <sup>5</sup> Section 84200, subd. (a).

27 <sup>6</sup> Regulation 18116.

28 <sup>7</sup> Section 84101.5, subd. (c).

<sup>8</sup> Section 84101.5, subd. (d).

<sup>9</sup> Reg. 18361.5, subd. (d).



1 25, 2013. The Committee later filed an amended statement for the period of September 22, 2013 to October  
2 20, 2013 on October 28, 2013.

3 15. At the time of the last campaign statement, the Committee had a reported balance of  
4 \$2,949.26.

5 16. The Committee has failed to file any subsequent campaign statements despite remaining  
6 an open committee.

7 17. In addition, the Committee failed to pay an annual \$50 fee to the Secretary of State for the  
8 years 2013, 2014, 2015, and 2016 by the deadline for each year, as well as the associated late penalties.  
9 As of August 10, 2017, the annual fees and penalties remain outstanding.

### 10 PROCEDURAL HISTORY

11 18. The Secretary of State referred this case to the Enforcement Division when the  
12 Committee failed to pay the 2013 and 2014 Annual Fee.

13 19. The Enforcement Division attempted to contact the Committee and Lewis by U.S. mail  
14 on April 12, 2016 (returned undeliverable) and May 3, 2016. The Enforcement Division also attempted  
15 to contact the Committee and Lewis by email and phone on August 16, 2016, August 23, 2016, August  
16 31, 2016, September 13, 2016, September 29, 2016. Lewis responded by email on September 29, 2016  
17 and October 6, 2016 indicating she would fulfill the filing requirements.

18 20. The Enforcement Division again attempted contact by email on August 2, 2017 and August  
19 8, 2017. Lewis responded on August 14, 2017, and continued to make contact on September 19, 2017,  
20 September 21, 2017, and September 24, 2017 with questions on how to fulfill her filing obligation but  
21 made no apparent progress. In the meantime, the Enforcement Division initiated an administrative action  
22 against the Committee and Lewis in this matter by serving a packet containing a cover letter, a Report in  
23 Support of a Finding of Probable Cause ("PC Report"), a fact sheet regarding probable cause proceedings,  
24 selected sections of the Government Code regarding probable cause proceedings for the Commission, and  
25 selected regulations of the Commission regarding probable cause proceedings.

26 21. The Committee and Lewis were served with the PC Report via certified mail on or about  
27 September 6, 2017, as indicated on the return receipt. The information contained in the PC Report packet  
28 advised the Committee and Lewis that they had 21 days in which to request a probable cause conference

1 and/or to file a written response to the PC Report. As of the date of this Accusation, the Committee and  
2 Lewis have not responded to the PC Report.

3 22. By means of an Ex Parte Request for a Finding of Probable Cause and an Order that an  
4 Accusation Be Prepared and Served ("Ex Parte Request"), dated October 12, 2017, the Enforcement  
5 Division submitted the matter to the Hearing Officer for a determination of probable cause.

6 23. On or about October 13, 2017, the Hearing Officer issued an order finding, based on the  
7 Ex Parte Request and the PC Report, that there was probable cause to believe the Committee and Lewis  
8 violated the Act and directed the Enforcement Division to issue an accusation against the Committee and  
9 Lewis in accordance with the finding.

10 24. The Enforcement Division attempted further contact by email on October 2, 2017 and  
11 October 26, 2017 but Lewis gave no response.

12 25. As of November 27, 2017, the Committee and Lewis have failed to file the outstanding  
13 campaign statements, pay the annual fee, and have not terminated the Committee.

#### 14 VIOLATIONS

15 26. The Committee and Lewis committed 11 violations of the Act as follows:

#### 16 Count 1

#### 17 Failure to Timely File a Semiannual Statement

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

20 28. As an active Committee and its candidate, the Committee and Lewis had a duty to file a  
21 semiannual statement for the period of October 21, 2013 to December 31, 2013 by the deadline of January  
22 31, 2014.

23 29. The Committee and Lewis failed to timely file the semiannual statement for the period of  
24 October 21, 2013 to December 31, 2013 by the deadline.

25 30. By failing to timely file the semiannual statement by January 31, 2014, the Committee and  
26 Lewis violated Section 84200.

27 //

#### 28 Count 2

1 Failure to Timely File a Semiannual Statement

2 31. Complainant incorporates paragraphs 1 – 30 of this Accusation, as though completely set  
3 forth here.

4 32. As an active Committee and its candidate, the Committee and Lewis had a duty to file a  
5 semiannual statement for the period of January 1, 2014 through June 30, 2014 by July 31, 2014.

6 33. The Committee and Lewis failed to timely file the semiannual statement for the period of  
7 January 1, 2014 through June 30, 2014 by the deadline.

8 34. By failing to timely file the semiannual statement by July 31, 2014, the Committee and  
9 Lewis violated Section 84200.

10 Count 3

11 Failure to Timely File a Semiannual Statement

12 35. Complainant incorporates paragraphs 1 – 34 of this Accusation, as though completely set  
13 forth here.

14 36. As an active Committee and its candidate, the Committee and Lewis had a duty to file a  
15 semiannual statement for the period of July 1, 2014 through December 31, 2014 by February 2, 2015.

16 37. The Committee and Lewis failed to timely file the semiannual statement for the period of  
17 July 1, 2014 through December 31, 2014 by the deadline.

18 38. By failing to timely file the semiannual statement by February 2, 2015, the Committee and  
19 Lewis violated Section 84200.

20 Count 4

21 Failure to Timely File a Semiannual Statement

22 39. Complainant incorporates paragraphs 1 – 38 of this Accusation, as though completely set  
23 forth here.

24 40. As an active Committee and its candidate, the Committee and Lewis had a duty to file a  
25 semiannual statement for the period of January 1, 2015 through June 30, 2015 by July 31, 2015.

26 41. The Committee and Lewis failed to timely file the semiannual statement for the period of  
27 January 1, 2015 through June 30, 2015 by the deadline.

1 42. By failing to timely file the semiannual statement by July 31, 2015, the Committee and  
2 Lewis violated Section 84200.

3 **Count 5**

4 **Failure to Timely File a Semiannual Statement**

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

7 44. As an active Committee and its candidate, the Committee and Lewis had a duty to file a  
8 semiannual statement for the period of July 1, 2015 through December 31, 2015 by February 1, 2016.

9 45. The Committee and Lewis failed to timely file the semiannual statement for the period of  
10 July 1, 2015 through December 31, 2015 by the deadline.

11 46. By failing to timely file the semiannual statement by February 1, 2016, Committee and  
12 Lewis violated Section 84200.

13 **Count 6**

14 **Failure to Timely File a Semiannual Statement**

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

17 48. As an active Committee and its candidate, the Committee and Lewis had a duty to file a  
18 semiannual statement for the period of January 1, 2016 through June 30, 2016 by August 1, 2016.

19 49. The Committee and Lewis failed to timely file the semiannual statement for the period of  
20 January 1, 2016 through June 30, 2016 by the deadline.

21 50. By failing to timely file the semiannual statement by August 1, 2016, the Committee and  
22 Lewis violated Section 84200.

23 **Count 7**

24 **Failure to Timely File a Semiannual Statement**

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

27 52. As an active Committee and its candidate, the Committee and Lewis had a duty to file a  
28 semiannual statement for the period of July 1, 2016 through December 31, 2016 by January 31, 2017.

1 53. The Committee and Lewis failed to timely file the semiannual statement for the period of  
2 July 1, 2016 through December 31, 2016 by the deadline.

3 54. By failing to timely file the semiannual statement by January 31, 2017, the Committee and  
4 Lewis violated Section 84200.

5 **Count 8**

6 **Failure to Timely Pay the Annual Fee**

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

9 56. As an active Committee and its candidate, the Committee and Lewis had a duty to pay an  
10 annual fee for 2013 to the Secretary of State.

11 57. The Committee and Lewis failed to pay the annual fee by the due date and failed to pay the  
12 resulting late payment penalty of \$150 levied by the Secretary of State.

13 58. By failing to timely pay the annual fee and resulting penalty, the Committee and Lewis  
14 violated Section 84101.5, subdivisions (c) and (d).

15 **Count 9**

16 **Failure to Timely Pay the Annual Fee**

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

19 60. As an active Committee and its candidate, the Committee and Lewis had a duty to pay an  
20 annual fee for 2014 to the Secretary of State.

21 61. The Committee and Lewis failed to pay the annual fee by the due date and failed to pay the  
22 resulting late payment penalty of \$150 levied by the Secretary of State.

23 62. By failing to timely pay the annual fee and resulting penalty, the Committee and Lewis  
24 violated Section 84101.5, subdivisions (c) and (d).

25 **Count 10**

26 **Failure to Timely Pay the Annual Fee**

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

1 64. As an active Committee and its candidate, the Committee and Lewis had a duty to pay an  
2 annual fee for 2015 to the Secretary of State.

3 65. The Committee and Lewis failed to pay the annual fee by the due date and failed to pay the  
4 resulting late payment penalty of \$150 levied by the Secretary of State.

5 66. By failing to timely pay the annual fee and resulting penalty, the Committee and Lewis  
6 violated Section 84101.5, subdivisions (c) and (d).

7 **Count 11**

8 **Failure to Timely Pay the Annual Fee**

9 67. Complainant incorporates paragraphs 1 – 66 of this Accusation, as though completely set  
10 forth here.

11 68. As an active Committee and its candidate, the Committee and Lewis had a duty to pay an  
12 annual fee for 2016 to the Secretary of State.

13 69. The Committee and Lewis failed to pay the annual fee by the due date and failed to pay the  
14 resulting late payment penalty of \$150 levied by the Secretary of State.

15 70. By failing to timely pay the annual fee and resulting penalty, the Committee and Lewis  
16 violated Section 84101.5, subdivisions (c) and (d).

17 **MITIGATING OR EXCULPATORY FACTORS**

18 71. The Enforcement Division is not aware of any mitigating or exculpatory factors.

19 **AGGRAVATING FACTORS AND OTHER RELEVANT MATERIALS**

20 72. Lewis is currently in office.

21 **PRAYER**

22 WHEREFORE, Complainant prays as follows:

- 23 1. That the Fair Political Practices Commission hold a hearing pursuant to Section 83116 and  
24 Regulation 18361.5, and at such hearing find that the Committee, Lewis for Water Board  
25 2013 and Brenda Lewis violated the Act as alleged herein;
- 26 2. That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
27 order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
28 of the Political Reform Act alleged in **Count 1**;

- 1           3.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
2           order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
3           of the Political Reform Act alleged in **Count 2**;
- 4           4.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
5           order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
6           of the Political Reform Act alleged in **Count 3**;
- 7           5.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
8           order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
9           of the Political Reform Act alleged in **Count 4**;
- 10          6.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
11          order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
12          of the Political Reform Act alleged in **Count 5**;
- 13          7.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
14          order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
15          of the Political Reform Act alleged in **Count 6**;
- 16          8.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
17          order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
18          of the Political Reform Act alleged in **Count 7**;
- 19          9.     That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
20          order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
21          of the Political Reform Act alleged in **Count 8**;
- 22          10.    That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
23          order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
24          of the Political Reform Act alleged in **Count 9**;
- 25          11.    That the Fair Political Practices Commission, pursuant to Section 83116, subdivision (c),  
26          order the Committee and Lewis to pay a monetary penalty of up to \$5,000 for the violation  
27          of the Political Reform Act alleged in **Count 10**;

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

16  
17 Dated: 15 Dec 17

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



**Exhibit A-7**

## STATEMENT TO RESPONDENTS

[Government Code Section 11505, subdivision (b)]

**BRENDA LEWIS AND LEWIS FOR WATER BOARD 2013**

**FPPC Case No. 16/322**

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

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

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

If you desire a list of the names and addresses of witnesses against you, or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code that are in the possession, custody, or control of this agency, or if you wish to discuss the possibility of resolving this matter without a formal hearing, you may contact Theresa Gilbertson, Commission Counsel, at (916) 323-6421 or [tgilbertson@fppc.ca.gov](mailto:tgilbertson@fppc.ca.gov), Enforcement Division.

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

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

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



*Before the Fair Political Practices Commission*

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**State of California**

In the Matter of )  
 ) NOTICE OF DEFENSE  
 ) (Pursuant to Gov. Code § 11506)  
 )  
 BREND A LEWIS AND LEWIS FOR ) FPPC Case No. 16/322  
 WATER BOARD 2013 )  
 )  
 Respondents. )  
 )  
 )  
 )  
 )

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

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

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

**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:

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

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

\_\_\_\_\_  
Respondent

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

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

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



*Before the Fair Political Practices Commission*

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**State of California**

In the Matter of

BRENDA LEWIS AND LEWIS FOR  
WATER BOARD 2013

Respondents.

) NOTICE OF DEFENSE  
) (Pursuant to Gov. Code § 11506)  
)  
) FPPC Case No. 16/322  
)  
)  
)  
)  
)  
)

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

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

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

**GROUND FOR NOTICE OF DEFENSE**

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

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

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

\_\_\_\_\_  
Respondent

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

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

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

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

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

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

(1) Request a hearing.

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

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

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

(5) Present new matter by way of defense.

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

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

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

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

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

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

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

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

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

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

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

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

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

///



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PROOF OF SERVICE**

At the time of service, I was over 18 years of age and not a party to this action. My business address is Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95815.

On 12/18/2017, I served the following document(s):

1. Statement to Respondent;
2. FPPC Case No. 16/322: Accusation;
3. Notice of Defense (Two Copies);
4. Selected Sections of the California Government Code, Administrative Procedure Act.

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

By personal service. At 4:07 a.m./(p.m.):

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

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

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

**SERVICE LIST**

Personal Delivery

Sasha Linker, Commission Assistant  
Fair Political Practices Commission  
1102 Q Street, Suite 3000  
Sacramento, California 95811

Personal Service

Brenda Lewis  


I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on 12/18/2017.

  
\_\_\_\_\_  
Roone Petersen

**Exhibit A-8**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State number, and address) <b>Galena West</b> <b>Fair Political Practices Commission</b> <b>1102 Q Street, Suite 3000 Sacramento, CA 95811</b> TELEPHONE NO.: (916) 323-6421 FAX NO. E-MAIL ADDRESS: ATTORNEY FOR: Complainant:	FOR COURT USE ONLY
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: In the Matter of DEFENDANT: Brenda Lewis, et al	CASE NUMBER: 16/322
<b>PROOF OF SERVICE</b>	Ref. No. or File No.:

AT THE TIME OF SERVICE I WAS AT LEAST 18 YEARS OF AGE AND NOT A PARTY TO THIS ACTION  
 I SERVED COPIES OF THE FOLLOWING DOCUMENTS:

**Statement to Respondents; Accusation; Notice of Defense; California Government Code Sections 11506 through 11508**

PARTY SERVED: **Brenda Lewis**

DATE & TIME OF DELIVERY: **12/20/2017**  
**7:22 PM**

ADDRESS, CITY, AND STATE:



PHYSICAL DESCRIPTION: **Age: 60**      **Weight: 160**      **Hair: Brown**  
**Sex: Female**      **Height: 5'5"**      **Eyes:**  
**Race: Black**

MANNER OF SERVICE:

Personal Service - By personally delivering copies.

Fee for Service: \$ 62.50  
 Registration No.: 33  
 County: Monterey  
 Saylor Legal Service, Inc.  
 12 Thomas Owens Way, Suite 100  
 Monterey, CA 93940  
 (831) 384-4030  
 Company Reg: Monterey County #85

I declare under penalty of perjury under the laws of the  
 The State of California that the foregoing information  
 contained in the return of service and statement of  
 service fees is true and correct and that this declaration  
 was executed on December 21, 2017.

Signature:   
 John DiCarlo

**PROOF OF SERVICE**

**Exhibit A-9**



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3000 • Sacramento, CA 95811  
(916) 322-5660 • Fax (916) 322-0886

**Via Certified Mail**

February 27, 2018

Brenda Lewis  
[REDACTED]

**NOTICE OF INTENT TO ENTER DEFAULT DECISION AND ORDER**

**Re: FPPC No. 16/322  
In the Matter of Brenda Lewis and Lewis for Water Board 2013**

Dear Ms. Lewis:

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 (the "Commission") will consider these papers at its public meeting on **April 19, 2018**, and decide whether to impose the maximum administrative penalty of \$35,000 against you.

You were previously served on September 6, 2017 with a Report in Support of a Finding of Probable Cause ("Probable Cause Report"), advising you of your right to request a probable cause conference or submit a written response to the Probable Cause Report. You did not request a probable cause conference, nor did you submit anything in writing for the Commission's Hearing Officer to consider in his determination of probable cause.

Following the issuance of the Probable Cause Report, the Commission's Hearing Officer found probable cause that you committed 11 violations of the Political Reform Act. Thereafter, the Commission's Chief of Enforcement issued an Accusation against you on these violations. The Accusation was personally served on you on December 20, 2017. Under the law, you have therefore received adequate notice of these proceedings and the action filed against you. Under the Administrative Procedure Act, you were required to file your Notices of Defense within 15 days after service of the Accusation. You failed to file the Notices of Defense forms. As such, your right to an administrative hearing on this matter has been forfeited, and you are in a default position.

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

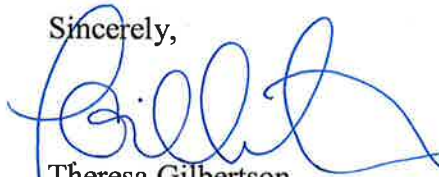
At its public meeting on April 19, 2018 the Commission may impose an administrative penalty against you in the amount of 35,000, the maximum penalty for seven violations.



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 April 19, 2018 meeting. Please contact me at (916) 323-6421 or [tgilbertson@fppc.ca.gov](mailto:tgilbertson@fppc.ca.gov) if you wish to enter into a negotiated settlement. Any settlement requires that you immediately file the delinquent campaign statements, as related in our prior discussions.

Sincerely,



Theresa Gilbertson  
Commission Counsel  
Enforcement Division

Enclosures