THE CITY OF SAN DIEGO

PRESS RELEASE

Ethics Commission

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ETHICS COMMISSION ANNOUNCES SETTLEMENT WITH EUGENE HEYTOW, ROBERT LEHMAN, AND SHERMAN MENDOZA CONCERNING LATE REPORTING OF INDEPENDENT EXPENDITURES

Stacey Fulhorst, Executive Director of the City of San Diego Ethics Commission, announced today the Commission's approval of stipulated settlement agreements with Eugene Heytow, Robert Lehman, and Sherman Mendoza, each of whom has agreed to pay a fine for failing to timely report independent expenditures made in connection with the November 4, 2008, election for City Council District 3. In light of the underlying circumstances discussed in detail below, Messrs. Heytow and Lehman each paid a $2,500 fine, and Mr. Mendoza paid a $500 fine.

Ms. Fulhorst explained that all three respondents made independent expenditures in the form of payments to the San Diego Voter Education Project, a slate mailer organization operated by Paola Avila. The payments were used to pay for two slate mailers distributed shortly before the November 2008 general election principally for the purpose of opposing the candidacy of Stephen Whitburn for District 3. Messrs. Heytow and Leman each made a $5,000 payment to the slate mailer organization on October 17, 2009, and were required to file corresponding disclosure reports with the City Clerk on or before October 23, 2009. Mr. Mendoza made a $1,000 payment to the organization on October 19, 2009, and was required to file a disclosure report with the City Clerk within twenty-four hours. According to Ms. Fulhorst, all three ultimately filed their disclosure reports well after the November 2008 general election.

By way of background, Ms. Fulhorst explained that the San Diego Voter Education Project is a slate mailer organization that was established on October 17, 2008, approximately two weeks before the

November general election. She noted that the Ethics Commission does not have jurisdiction over slate mailer organizations, and that they operate entirely under state law. She added that slate mailer organizations traditionally operate as for-profit entities that are paid to produce mailers that identify and support an extensive "slate" of candidates and/or ballot measures in various jurisdictions throughout California. In this case, she described the San Diego Voter Education Project as a "non-traditional" slate mailer organization, and pointed out that it has produced only two mailers, both in connection with the November 2008 general election, and both devoting 75% of available space exclusively to opposing District 3 candidate Stephen Whitburn, with the remaining space used to identify five ballot measures. She pointed out that, without the inclusion of the five ballot measures, the mailing would not have qualified as a "slate mailer." As a result, it would have been subject to various City laws, including contribution limits.

According to Ms. Fulhorst, none of the representatives associated with the slate mailer organization notified Mr. Heytow, Mr. Lehman, or Mr. Mendoza of their filing responsibilities at the time they solicited or accepted their contributions. She stated, "Although slate mailer organizations do not have a legal obligation to put their contributors on notice of their filing obligations, the Commission would hope that they would voluntarily undertake such efforts to ensure that proper disclosures are made in a timely manner."

The Commission Chairman, Richard Valdez, stated that "The timely disclosure of independent expenditures made in the final weeks before an election is extremely important because it ensures that the public receives essential information regarding the sources and amounts of expenditures made to support or oppose local candidates before they cast their votes." He observed that, in this case, the public did not receive the information concerning the expenditures made by the respondents until after the election, a substantial factor in aggravation. Although the slate mailer organization could have alerted Messrs. Heytow, Lehman, and Mendoza of their filing responsibilities, Chairman Valdez noted that persons who make substantial payments to support or oppose City candidates have an independent obligation to learn about and adhere to the applicable state and local disclosure laws.

Ethics Commission fines are paid to the City of San Diego's General Fund. The stipulated settlements approved by the Commission resolve all factual and legal issues without the necessity of holding an administrative hearing.

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