THE CITY OF SAN DIEGO

November 9, 2007

Luis Acle
Luis Acle for City Council
2420 F Street
San Diego, CA 92102

Re: Ethics Commission Audit

Dear Mr. Acle:

The Ethics Commission audit of the above-referenced committee is now concluded, and the Final Audit Report is enclosed. This report was delivered to the Ethics Commission at its regularly-scheduled meeting on November 8, 2007. The report reflects sixty-three material findings.

If you have any questions concerning the foregoing, please contact me at your convenience.

Sincerely,

Lauri Davis
Ethics Commission Sr. Investigator

Enclosure

Ethics Commission
1010 Second Avenue, Suite 1530 • San Diego, CA 92101
Tel (619) 533-3476 Fax (619) 533-3448

THE CITY OF SAN DIEGO

FINAL AUDIT REPORT

November 5, 2007

Luis Acle
Acle for City Council
2420 F Street
San Diego, CA 92102

SAN DIEGO ETHICS COMMISSION AUDIT REPORT:
Acle for City Council

I. Introduction

This report contains information pertaining to the audit of the Acle for City Council Committee [Committee], identification number 1278931, for the period from August 2, 2005, to September 20, 2007. The Committee was selected for audit during a random drawing conducted at the Ethics Commission meeting held on September 13, 2007. At the time the Committee was selected, it was the subject of an Ethics Commission investigative audit. Therefore, when the Committee was selected, the scope of the investigative audit was expanded to that of a compliance audit, as outlined in the Ethics Commission audit manual.

The audit was conducted to determine whether the Committee materially complied with the requirements and prohibitions imposed by the City of San Diego's Election Campaign Control Ordinance [ECCO] (San Diego Municipal Code [SDMC] Chapter 2, Article 7, Division 29).

During the period covered by the audit, the Committee reported total contributions of $37,644.90 from 171 contributors, a loan balance of $17,998.89 from the candidate, and total expenditures of $54,357.58. The difference, $1,286.21, represents miscellaneous increases to cash, cash on hand and other adjustments. The audit revealed sixty-three material findings with regard to the Committee: (1) the Committee violated SDMC section 27.2916 by failing to deposit one loan and two contributions from the candidate into its bank account; (2) the Committee violated SDMC section 27.2916 by failing to deposit two contributions into its campaign bank account within thirty business days; (3) the Committee violated SDMC section 27.2925 by not maintaining complete accounting records; (4) the Committee violated SDMC section 27.2930 by failing to timely file paper campaign statements on two occasions and electronic campaign

statements on two occasions; (5) the Committee violated SDMC section 27.2930 when it failed to report two campaign contributions; (6) the Committee violated SDMC section 27.2930 by not disclosing one in-kind contribution; (7) the Committee violated SDMC section 27.2930 by not reporting four campaign expenditures; (8) the Committee violated SDMC section 27.2930 by failing to disclose accrued expenses on its campaign statements on thirty-two occasions; (9) the Committee violated SDMC section 27.2941 when it accepted two cash contributions from the candidate in the form of loans, each exceeding the cash contribution limit, and (10) the Committee violated SDMC section 29.2960 by not paying vendors within 180 days in twelve instances.

II. Committee Information

The Committee was formed to support the election of Luis Acle for Council District 8 in the November 8, 2005, special election and the January 10, 2006, special run-off election. On August 2, 2005, Mr. Acle filed a Candidate Intention Statement (Form 501) with the City Clerk. On August 11, 2005, the Committee filed a Statement of Organization (Form 410) with the City Clerk indicating that it qualified as a committee on August 2, 2005. Mary Azevedo served as the Committee's treasurer from August 10, 2005, until January 31, 2006, the effective date of her resignation. The Committee's current treasurer is Mr. Acle and the Assistant Treasurer is Rusanne Anthony. Ms. Azevedo had no involvement in the material findings noted in this report. The Committee remains open as of the date of this report.

III. Audit Authority

The Commission is mandated by San Diego Municipal Code section 26.0414 to audit campaign statements and other relevant documents to determine whether campaign committees comply with applicable requirements and prohibitions imposed by local law.

IV. Audit Scope and Procedures

This audit was performed in accordance with generally accepted auditing standards and the guidelines set forth in the Ethics Commission Audit Manual. The audit involved a thorough review of the Committee's records for the time period covered by the audit. This review was conducted to determine:

1. Compliance with all disclosure requirements pertaining to contributions, expenditures, accrued expenditures, and loans, including itemization when required;
2. Compliance with restrictions on contributions, loans, and expenditures;
3. Accuracy of total reported receipts, disbursements, and cash balances as compared to bank records; and
4. Compliance with all record-keeping requirements.

V. Applicable Law

SDMC §27.2903 – Definitions

Contribution has the same meaning as that term is defined in California Government Code section 82015 and is subject to the inclusions and exceptions contained in title 2, section 18215 of the California Code of Regulations

The above provisions of the SDMC incorporate the following FPPC Regulation:

FPPC Regulation 18215(b) – Contribution

(b) The term "contribution" includes:

(1) Any payment made to a person or organization other than a candidate or committee, when, at the time of making the payment, the donor knows or has reason to know that the payment, or funds with which the payment will be commingled, will be used to make contributions or expenditures. If the donor knows or has reason to know that only part of the payment will be used to make contributions or expenditures, the payment shall be apportioned on a reasonable basis in order to determine the amount of the contribution. There shall be a presumption that the donor does not have reason to know that all or part of the payment will be used to make expenditures or contributions, unless the person or organization has made expenditures or contributions of at least one thousand dollars ($1,000) in the aggregate during the calendar year in which the payment occurs, or any of the immediately preceding four calendar years.

(2) A candidate's own money or property used on behalf of his or her candidacy.

SDMC §27.2916 – Campaign Contribution Checking Account for Controlled Committees

(a) Every *controlled committee* that accepts *contributions* shall establish one campaign *contribution* checking account at an office of a bank or other financial institution providing checking account services located in the *City* of San Diego.

(b) Upon opening of an account, the name of the bank or other financial institution and account number thereof shall be filed with the *City Clerk* on the same forms and in the time and manner required by California Government Code sections 81000 *et seq*.

(c) All *contribution*s of money or checks, or anything of value converted by such *controlled committee* to money or a check, shall be placed in the *controlled committee's* checking account within thirty business days, except that no *contribution* shall be deposited to a campaign *contribution* checking account without the receipt by the *controlled committee* of all information required by California Government Code section 84211. Any information that has not been provided shall be requested, in writing, by the campaign *treasurer* within ten business days of receipt of the money or check.

(d) Any *contribution* not deposited within thirty business days shall be returned to the contributor as soon as possible after the thirtieth business day, but no later than thirty-five business days after receipt of the *contribution*.

SDMC §27.2925 – Accounting

(a) In addition to any other requirements of this division, every *candidate* or *committee* that accepts *contributions* for a *City election* shall maintain a record of each of the following:

(1) any *contribution* received by the *candidate* or *committee* and deposited into the campaign *contribution* checking account; and,
(2) any disbursement made from the campaign *contribution* checking account.

(b) The records required by section 27.2925(a) shall include, but not be limited to, all of the following:

(1) the name and address of the contributor; and
(2) the amount of the *contribution*, and the date on which it was received or offered; and
(3) if the *contribution* is made by check, a legible photocopy of the check; and
(4) if the *contribution* offered or received consists of cash, an indication that cash was offered or received, and a legible photocopy of the bank deposit slip indicating that the cash *contribution* was deposited into the campaign *contribution* checking account; and
(5) legible photocopies or originals of all bank records pertaining to the campaign *contribution* checking account; and
(6) if a *contribution* is made by the *candidate* to his or her own campaign, a statement disclosing the source of the funds; and
(7) if a contribution is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the contribution, and the basis for the estimate; and,
(8) for each disbursement made from or check drawn on the campaign *contribution* checking account, the canceled check, the bank statement showing the disbursement, the name of the payee of each check, an itemized record of the goods or services for which each check is issued or disbursement made, and legible photocopies or originals of any invoices, bills, or other supporting documents for which funds were disbursed.

(c) The records required by section 27.2925 (a) and (b) shall be kept by the *candidate* or *committee treasurer* for a period of four years following the date that the campaign statement to which they relate is filed.

(d) Each *candidate* and *committee* shall deliver, on demand, to any public officer having authority to enforce this division, a written authorization permitting the officer to have access to all records pertaining to the campaign *contribution* checking account.

(e) Each *candidate* and *committee* shall, on demand, make available to any public officer having authority to enforce this division all records required by this division to be maintained by the *candidate* or *committee*.

SDMC §27.2930 – Base Level of Campaign Statements and Disclosures

Each *candidate* and *committee* shall file campaign statements in the time and manner

required by California Government Code sections 81000 *et seq.* and title 2 of the California Code of Regulations with the following additional requirements:

...

(h) It is unlawful to fail to comply with the disclosure requirements of California Government Code sections 81000 *et seq.*, the disclosure requirements of title 2 of the California Code of Regulations, and the additional requirements of this section.

SDMC section 27.2930 incorporates the following California Government Code sections and Regulations of the Fair Political Practices Commission [FPPC]:

California Government Code section 84200(a) – Semi-Annual Statements

Except as provided in paragraphs (1), (2), and (3), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

California Government Code section 84211(a)-(f) – Contents of Campaign Statement (relating to contributions)

Each campaign statement required by this article shall contain all of the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars ($100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars ($100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars ($100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

(1) His or her full name.
(2) His or her street address.
(3) His or her occupation.
(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan.
(6) The cumulative amount of contributions.

California Government Code section 84211(i)-(k) – Contents of Campaign Statement (relating to expenditures)

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

(j) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars ($100).

(k) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by the campaign statement, all of the following:

(1) His or her full name.
(2) His or her street address.
(3) The amount of each expenditure.
(4) A brief description of the consideration for which each expenditure was made.
(5) In the case of an expenditure which is a contribution to a candidate, elected officer, or committee or an independent expenditure to support or oppose a candidate or measure, in addition to the information required in paragraphs (1) to (4) above, the date of the contribution or independent expenditure, the cumulative amount of contributions made to a candidate, elected officer, or committee, or the cumulative amount of independent expenditures made relative to a candidate or measure; the full name of the candidate, and the office and district for which he or she seeks nomination or election, or the number or letter of the measure; and the jurisdiction in which the measure or candidate is voted upon.

FPPC Regulation 18421.6 (a) and (b) – Reporting Accrued Expenses

(a) Accrued expenses (excluding loans) owed by a recipient committee which remain outstanding shall be reported on each campaign statement until extinguished.

(b) An accrued expense (excluding a loan) shall be reported as of the date on which the goods or services are received, except that any obligation incurred for a regularly recurring administrative overhead expense (e.g., rent, utilities, phones, campaign workers' salary) shall not be reported as an accrued expense before the payment due date. If the exact amount of a debt or obligation is not known, the report shall state that the amount reported is an estimate. Once the exact amount is determined, the committee shall either amend the report(s) containing the estimate or indicate the correct amount on the report for the reporting period in which such amount is determined.

SDMC §27.2931 – Online Disclosure of Campaign Statements

(a) It is the intent of the *City* to implement an electronic filing system that facilitates the disclosure of financial activities engaged in by *candidates* and *committees* participating in *City election* campaigns. When a practical and financially feasible electronic filing

system has been implemented by the *City Clerk*, the provisions of this section shall be in effect.

(b) Each *candidate* and *committee* that has received *contributions* or made *expenditures* of $10,000 or more in connection with a *City election* shall use the *City Clerk's* electronic filing system to file online each campaign statement required by section 27.2930. Once a *candidate* or *committee* is required to file campaign statements online, that *candidate* or *committee* shall continue to file statements online until the *committee* has officially terminated.

(c) Any *candidate* or *committee* not required to file online pursuant to subsection (b) may do so voluntarily.

(d) The beginning date for calculating the $10,000 threshold shall be determined when the *City Clerk* implements its electronic filing system.

(e) All *candidates* and *committees* required to file their campaign statements online shall continue to file a paper copy of each campaign statement, as required by the California Political Reform Act and this division, until such *candidates* and *committees* are no longer required to file campaign statements with the *City Clerk*. The paper copy shall continue to be the original campaign statement for audit and other legal purposes.

(f) In addition to any late filing penalties that may be imposed for the late filing of a paper copy pursuant to the California Political Reform Act or to other provisions of this division, any *person* who fails to comply with the online filing requirement of this section shall be subject to an additional late filing penalty of $25 per day after the deadline for the filing of the online copy.

(g) The information contained on a campaign statement filed online shall be the same as that contained on the paper copy of the same statement that is filed with the *City Clerk*.

SDMC §27.2941 – Cash Contributions

(a) No *contribution* of $100 or more shall be made or received in cash.

(b) A cash *contribution* shall not be deemed received if it is not deposited and is returned to the contributor before the closing date of the campaign statement on which the *contribution* would otherwise be reported.

(c) A cash *contribution* that is deposited shall not be deemed received if it is refunded within 72 hours of receipt, or within 48 hours of receipt if it is a "late contribution" as defined in California Government Code section 82036.

SDMC §27.2960 – Extensions of Vendor Credit

(a) *Vendors* may extend credit to *candidates* or *committees* in the ordinary course of business in the same manner they extend it to *persons* for other than *political purposes*.

(b) A *candidate* or *committee* that accepts goods or services for *political purposes* on credit under subsection (a), shall pay for those goods or services in full no later than 180 calendar days after receipt of a bill or invoice and in no event later than 180 calendar

days after the last calendar day of the month in which the goods were delivered or the services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably based on a good faith dispute. For purposes of this subsection, a good faith dispute shall be presumed if the *candidate* or *committee* produces the following:

(1) evidence that the *candidate* or *committee* protested the *payment* of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and
(2) evidence that the protest was based on the quality or quantity of goods delivered or services rendered.

(c) The provisions of subsection (b) do not apply to debt owed to a financial institution for an outstanding credit card balance.

SDMC §27.2961 – Continuing Violations – Extensions of Vendor Credit

A candidate or committee treasurer violates section 27.2960 whenever the candidate or committee treasurer fails to make payment in full for rent, goods, or services within the time periods set forth in section 27.2960. Each and every calendar day any obligation remains partially or wholly unpaid after the time periods set forth in section 27.2960 constitutes a separate violation.

VI. Material Findings

A. Violations of SDMC section 27.2916 – Campaign Contribution Checking Account for Controlled Committees

(1) The candidate paid the following three campaign expenses using personal funds, effectively making a contribution to the Committee, without first depositing the money into the Committee's bank account:

Vendor	Amount paid	Date paid
Verizon Wireless invoice dated 01/01/06	$ 97.49	01/26/06
Verizon Wireless invoice dated 02/01/06	132.79	Unknown[1]
Rusanne Anthony [2]	467.50	03/13/07
Total	$ 697.78	

[1] Verizon statement/payment record not provided by Candidate; however, subsequent statements in 2007 do not reflect this amount as an unpaid balance.

[2] Doing business as Independent Bookkeeping Services. Ms. Anthony claims that this amount was paid in cash by Mr. Acle. No supporting documents were provided.

The payment to Rusanne Anthony was reported as a $500.00 loan to the Committee, according to the electronically filed campaign statement[1] for the period covering January 1, 2007, through June 30, 2007. However, the campaign bank account does not reflect a $500.00 deposit on or around that date. The Assistant Treasurer, Rusanne Anthony, explained that the $500.00 cash was not deposited into the Committee's bank account because it was given to her directly by the candidate in payment for her services (see section VI (B)). This $500.00 cash payment was disclosed as a $467.50 payment to Ms. Anthony on the campaign statement for the period covering January 1, 2007, through June 30, 2007.

At the post-audit conference on October 18, 2007, Mr. Acle stated that these payments were personally made by him because he believed the campaign became "defunct" in December 2005 after a botched fundraiser. Additionally, he had given the cell phones to his daughters and may have had personal calls reflected on the Verizon invoices; therefore, he felt obligated to personally make these payments. He gave $500.00 in cash to his assistant treasurer, Rusanne Anthony, in order to cover a "bounced check" in payment for her services; however he does not have any supporting documentation such as a bank statement reflecting a withdrawal of the $500.00 cash from his personal bank account because he routinely carries cash.

(2) The Committee failed to timely deposit two contributions into the Committee's campaign bank account within thirty business days of receiving the contributions. The investigation revealed the Committee received a $500.00 joint check from Kenneth and Doreen Williams dated December 26, 2005, in a remittance envelope postmarked on January 5, 2006. The Committee did not deposit this check until approximately February 27, 2006.

B. Violations of SDMC section 27.2925 – Accounting

During the course of the investigation and audit, repeated requests had to be made for the Committee to provide copies of campaign records related to contributions, loans, and expenses. In some cases, records had to be requested directly from some of the vendors or from the Committee's former Treasurer. Specifically, the Committee did not maintain the following:

- the deposit record of a joint contribution from Kenneth and Doreen Williams for $500.00;
- records reflecting the source of loans from the candidate or the deposit of loans into the Committee's bank account;
- Invoices from the following vendors: Ken Moser (DBA Marketing Support Systems), Ann Kelsey, PAC Management & Consulting, Inc. (TJ Zane, Principal), Mary Z Fundraising, LLC (Mary Azevedo, Principal), Erik Zandovskis, John Gordon, Verizon Wireless, SD Transcript, San Diego County Registrar of Voters, Ken Moser, and the City Treasurer;
- bank statements and copies of six checks;

[1] As explained below in section C, the Committee has yet to file a paper copy of this campaign statement.

- documents evidencing the source of cash loans and payments for campaign expenses using personal funds (see section VI (B)).

C. Violations of SDMC section 27.2930 – Base Level of Campaign Statements and Disclosures and SDMC section 27.2931 - Online Disclosure of Campaign Statements

(1) The Committee did not timely file the following campaign statements:

Reporting period	Due date	Date of online filing	Online filing days late	Date of paper copy filing	Paper copy days late
07/01/06 – 12/31/06	01/31/07	03/07/07	35	03/14/07	49
01/01/07 - 06/30/07	07/31/07	08/15/07	15	Not filed as of date of this report	Not filed as of date of this report

(2) On approximately January 5, 2006, the Committee received but failed to report two campaign contributions made by a joint $500.00 check from Kenneth and Doreen Williams (see VI(A)), understating contribution totals for the period ending June 30, 2006, by $500.00.

(3) John Gordon submitted an invoice to the Committee on January 10, 2006 in the amount of $146.00 for campaign services he provided during the period from January 7, 2006, through January 9, 2006. Mr. Gordon subsequently agreed to convert the debt into an in-kind contribution in June 2006. The Committee failed to disclose this in-kind contribution from John Gordon for $146.00, understating contribution totals for the period ending June 30, 2006, by that amount.

At the post-audit conference, Mr. Acle explained that he did not report John Gordon's in-kind contribution because he did not recall having any discussion with Gordon about converting the debt to a contribution. Instead, he thought they had agreed to forget about the debt so it became "non-existent."

(4) The Committee failed to report the following four payments on its campaign statements:

Vendor	Invoice date	Invoice amount	Date paid
Ken Moser [1]	11/08/05	$ 2,500.00	04/05/07
Ken Moser	12/15/05	5,000.00	04/05/07
Verizon Wireless [2]	01/01/06	97.49	01/26/06
Verizon Wireless [2]	02/01/06	132.79	Unknown
	Total	$ 7,730.28	

[1] Doing business as Marketing Support Systems
[2] Mr. Acle claims to have personally paid these amounts. No supporting documents provided.

At the post-audit conference, Mr. Acle explained that the payments to Mr. Moser (Marketing Support Systems) were not reported on the campaign statements because Mr. Acle was sued as an individual for non-payment of this debt, and the court ordered him to personally pay. According to Mr. Acle, the Verizon payments were not reported because the invoices contained personal phone calls and in Mr. Acle's mind the campaign was over by then.

(5) The Committee failed to report accrued expenses on thirty-two occasions. The last column in the following table identifies the reporting period for each of the campaign statements in which the accrued expenses should have been reported:

Payee	Invoice date	Amount	Payment date	Reporting period ending date
Ken Moser [1]	09/23/05	$ 3,485.75	10/10/05	09/24/05
Ken Moser [1]	11/08/05	2,500.00	04/05/07	12/24/05 06/30/06 12/31/06
Ken Moser [1]	11/26/05	1,342.00	07/19/06	06/30/06
Ken Moser [1]	12/15/05	5,000.00	04/05/07	12/24/05 06/30/06 12/31/06
Ken Moser [1]	12/26/05	2,500.00	Unpaid	06/30/06 12/31/06 06/30/07
PAC Management & Consulting, Inc. [2]	12/28/05	1,000.00	Unpaid	06/30/06 12/31/06 06/30/07
PAC Management & Consulting, Inc. [2]	01/04/06	1,000.00	Unpaid	06/30/06 12/31/06 06/30/07
Erik Zandovskis	01/10/06	50.00	Unpaid	06/30/06 12/31/06 06/30/07

Payee	Invoice date	Amount	Payment date	Reporting period ending date
Ann Kelsey	01/10/06	250.00	Unpaid	06/30/06 12/31/06 06/30/07
Mary Z Fundraising, LLC [3]	01/31/06	500.00	Unpaid	06/30/06 12/31/06 06/30/07
Rusanne Anthony [4]	03/31/06	87.47	03/13/07	06/30/06 12/31/06
Rusanne Anthony [4]	06/30/06	45.55	03/13/07	06/30/06 12/31/06
Rusanne Anthony [4]	07/31/06	267.98	03/13/07	12/31/06
Rusanne Anthony [4]	10/31/06	66.50	03/13/07	12/31/06
	Total	$18,095.25		

[1] Doing business as Marketing Support Systems. The total amount of $7,500.00 paid to Mr. Moser on April 5, 2007, was mandated by a lien (Abstract of Judgment) recorded on Mr. Acle's real property resulting from the enforcement of a Small Claims Court judgment.
[2] TJ Zane, Principal
[3] Mary Azevedo, Principal
[4] Doing business as Independent Bookkeeping Services

At the post-audit conference, Mr. Acle maintained that he was not required to report the accrued expenses for Ken Moser, PAC Management, Erik Zandovskis, Ann Kelsey, and Mary Z Fundraising, because the invoices from these vendors were never approved by him or his campaign manager. In addition, he expressed his belief these vendors did not actually perform the invoiced services for the Committee; however, he was unable to provide any evidence of a good faith dispute or any evidence that he protested the unpaid bills. When asked why some of the accrued expenses were initially disclosed but later removed from campaign statements, Mr. Acle stated that he did not review the campaign statements because he relied on experts to prepare them.

Finally, with respect to the accrued expenses for his Assistant Treasurer, Rusanne Anthony, Mr. Acle advised that he did not report these accrued expenses because the campaign does not have any money, and because he believes that her services were provided to him as an individual, and not to the Committee.

D. Violations of SDMC section 27.2941 – Cash Contributions

On January 3, 2006, the Committee accepted one $500.00 cash contribution from the candidate in the form of a loan. On March 13, 2007, the Committee accepted another $500.00 cash contribution from the candidate in the form of a loan (see section VI (A)).

At the post-audit conference, Mr. Acle indicated that he did not know that his Committee could not accept cash contributions of $100.00 or more. Additionally, Mr. Acle stated that he does not consider the March 2007 cash payment to Ms. Anthony to be a contribution because he believes he was only substituting payment for a bounced check.

E. Violations of SDMC 27.2960 and 27.2961 – Extensions of Vendor Credit

The Committee failed to pay the following vendors within 180 days:

Vendor	Invoice date	Invoice amount	Date paid	Days unpaid through 9/20/2007	Days beyond 180 day limit through 9/20/2007
Ken Moser [1]	11/08/05	$ 2,500.00	04/05/07	513	333
Ken Moser [1]	11/26/05	1,342.00	06/30/06	216	36
Ken Moser [1]	12/15/05	5,000.00	04/05/07	476	296
Ken Moser [1]	12/26/05	2,500.00	**Unpaid**	633	453
PAC Management & Consulting, Inc. [2]	12/28/05	1,000.00	**Unpaid**	631	451
PAC Management & Consulting, Inc. [2]	01/04/06	1,000.00	**Unpaid**	624	444
Erik Zandovskis	01/10/06	50.00	**Unpaid**	618	438
Ann Kelsey	01/10/06	250.00	**Unpaid**	618	438
Mary Z Fundraising, LLC [3]	01/31/06	500.00	**Unpaid**	597	417
Rusanne Anthony [4]	03/31/06	87.47	03/13/07	347	167
Rusanne Anthony [4]	06/30/06	45.55	3/13/07	256	76

Vendor	Invoice date	Invoice amount	Date paid	Days unpaid through 9/20/2007	Days beyond 180 day limit through 9/20/2007
Rusanne Anthony [4]	07/31/06	267.98	3/13/07	225	45
	TOTAL	$ 14,543.00			

[1] Doing business as Marketing Support Systems. The total amount of $7,500.00 paid to Mr. Moser on 4/5/2007 was mandated by a lien (Abstract of Judgment) recorded on Mr. Acle's real property resulting from the enforcement of a Small Claims Court judgment.
[2] TJ Zane, Principal
[3] Mary Azevedo, Principal
[4] Doing business as Independent Bookkeeping Services

According to SDMC section 27.2961, each and every calendar day any obligation remains partially or wholly unpaid after the time periods constitutes a separate violation.

At the post-audit conference, Mr. Acle maintained that he was not required to pay Ken Moser, PAC Management, Erik Zandovskis, Ann Kelsey, and Mary Z Fundraising, within 180 days because the invoices from these vendors were never approved by him or his campaign manager. In addition, he expressed his belief these vendors did not actually perform the invoiced services for the Committee; however, he was unable to provide any evidence of a good faith dispute or any evidence that he protested the unpaid bills within thirty days as required by SDMC section 27.2960.

VII. Conclusion

Through the examination of the Committee's records and campaign disclosure statements, the Auditor verified that the Committee timely disclosed all contributions received and all expenditures made, and that the Committee maintained all necessary documentation regarding contributions and expenditures in accordance with disclosure and record-keeping provisions of ECCO, with the following exceptions:

The audit revealed sixty-three material findings with regard to the Committee: (1) the Committee violated SDMC section 27.2916 by failing to deposit one loan and two contributions from the candidate into its bank account; (2) the Committee violated SDMC section 27.2916 by failing to deposit two contributions into its campaign bank account within thirty business days; (3) the Committee violated SDMC section 27.2925 by not maintaining complete accounting records; (4) the Committee violated SDMC section 27.2930 by failing to timely file paper campaign statements on two occasions and electronic campaign statements on two occasions; (5) the Committee violated SDMC section 27.2930 when it failed to report two campaign contributions;

(6) the Committee violated SDMC section 27.2930 by not disclosing one in-kind contribution; (7) the Committee violated SDMC section 27.2930 by not reporting four campaign expenditures; (8) the Committee violated SDMC section 27.2930 by failing to disclose accrued expenses on its campaign statements on thirty-two occasions; (9) the Committee violated SDMC section 27.2941 when it accepted two cash contributions from the candidate in the form of loans, each exceeding the cash contribution limit, and (10) the Committee violated SDMC section 29.2960 by not paying vendors within 180 days in twelve instances.

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Francisco Murillo, CPA Date
Auditor

_____ _____

Lauri Davis Date
Senior Investigator