



ANNUAL REPORT
2007

MISSION STATEMENT

To preserve public confidence in our City government through education, advice, and the prompt and fair enforcement of local governmental ethics laws.

DUTIES AND RESPONSIBILITIES

The City of San Diego Ethics Commission is responsible for monitoring, administering, and enforcing the City's governmental ethics laws; conducting audits and investigations; providing formal and informal advice to persons who fall within the jurisdiction of the Commission; conducting training sessions for the regulated community; and proposing governmental ethics law reforms.

Governmental ethics laws include the Ethics Ordinance, the Election Campaign Control Ordinance, and the Municipal Lobbying Ordinance. The Ethics Commission accepts complaints regarding alleged violations of laws within its jurisdiction, and protects individuals from retaliation for reporting violations. The Ethics Commission may impose fines up to \$5,000 for each violation of local governmental ethics laws.

Persons who fall within the jurisdiction of the Ethics Commission include the following:

- Mayor, Councilmembers, City Attorney, and their respective staffs
- Unclassified managerial employees
- City candidates & campaign committees
- Members of boards & commissions who file Statements of Economic Interests
- Members of Project Area Committees
- Consultants who file Statements of Economic Interests
- Lobbyists

The Ethics Commission is an independent City department that does not report to the Mayor or City Council. Instead, Commission staff reports directly to the Ethics Commissioners, who are appointed by the Mayor and City Council to serve four-year terms.

The Ethics Commission is separate and distinct from the Office of Ethics and Integrity, a department that endeavors to strengthen the ethical climate at the City through a program based primarily on principles and values. The Office of Ethics and Integrity reports directly to the Mayor, and has jurisdiction over all City employees who work in departments under the Mayor. Although the Ethics Commission is not affiliated with the Office of Ethics and Integrity, the Commission staff works with this office as appropriate to achieve continuity between the City's ethics laws and the City's administrative policies and procedures, and to ensure that complaints are handled by the appropriate entity.

2007 COMMISSIONERS AND STAFF

Chair

Guillermo Cabrera (elected July 12, 2007)

Vice Chair

W. Lee Biddle (elected July 12, 2006)

Commissioners

Charles H. Dick, Jr. (term expired June 30, 2007)

Clyde Fuller (assumed office July 12, 2007)

Krishna Haney (assumed office July 12, 2007)

Dorothy Leonard

Karen Thomas-Stefano (term expired June 30, 2007)

Richard Valdez (assumed office July 12, 2007)

Larry Westfall

Staff

Stacey Fulhorst, Executive Director

Cristie McGuire, General Counsel (until October 2007)

Alison Adema, General Counsel (beginning October 2007)

Stephen Ross, Education Program Manager

Lauri Davis, Senior Investigator

Francisco Murillo, Auditor

Katherine Hunt, Executive Secretary

LETTER FROM THE CHAIR AND EXECUTIVE DIRECTOR

January 2008

The Commission's primary accomplishment in 2007 involved the comprehensive overhaul of the City's lobbying laws. After eighteen months of public workshops, the Commission was extremely gratified when the City Council approved all of the recommended changes in July. The new laws will ensure that the appropriate persons will be required to register as lobbyists and disclose significant information to the public regarding their lobbying related activities.

The City Council's approval of the Commission's lobbying proposals in July enabled the Commission staff to embark on a series of educational efforts from September through December to ensure that people who are compensated to influence City decisions are aware of the new laws that will go into effect on January 1, 2008. These efforts included live training sessions and the preparation and distribution of various fact sheets, as well as new registration forms and quarterly disclosure reports with accompanying instructions.

During the last few months of the year, the Commission began working on several major policy issues concerning the City's campaign laws. Specifically, the Commission began discussions regarding the City's contribution limits, the disclosure of campaign fundraising activities, and public financing of City candidate elections. The Commission plans to complete its work on these subjects in early 2008, so that it can present recommended changes to the City Council in mid-2008.

In 2007, the Commission continued to expand its education programs. Specifically, the Commission published its first Candidate Manual, which is intended to ensure that the City's campaign laws are explained in a clear and straightforward manner. The Commission also issued several new Fact Sheets regarding various provisions in the City's Ethics Ordinance. Finally, the Commission staff continued to respond to requests for informal advice from City Officials, City candidates, and lobbyists. The number of these requests increased dramatically from the prior year.

During the past year, the Commission continued to investigate alleged violations of the City's campaign laws, lobbying laws, and ethics laws, and entered into a total of twenty stipulated settlement agreements. In addition, the Commission completed audits of campaign committees from the 2004 election cycle, and conducted a random drawing for the audit of campaign committees from the 2005-2006 election cycle. As a result of the series of special elections held in 2005 and 2006, a total of eighteen candidate committees and three ballot measure committees were selected for audit. These audits are an extremely important component of the Commission's activities as they are the fundamental means of assuring the public that the information disclosed on campaign statements is accurate and complete.

In June, the four-year terms of Commissioners Charles H. Dick, Jr., and Karen Stefano expired. Although the valuable contributions of these Commissioners will be missed, the Commission is pleased to welcome Commissioners Clyde Fuller, Krishna Haney, and Richard Valdez, who assumed office in July. The new Commissioners bring diverse perspectives to the Commission and continue the level of professionalism set by their predecessors.

The Commission is proud of its accomplishments during the past year and looks forward to meeting the challenges presented in 2008.

Sincerely,

Guillermo Cabrera
Chair

Stacey Fulhorst
Executive Director

ACTIVITIES AND ACCOMPLISHMENTS

Administrative

During the 2007 budget season, the Commission made a presentation to the City Council regarding the Commission's accomplishments within its existing budget. In accordance with the Commission's request, the City Council made no substantive changes to the Ethics Commission's budget for fiscal year 2008.

During the 2007 calendar year, the Commission's part-time General Counsel, Cristie McGuire, advised the Commission that she planned to return to retirement. In addition, the Commission determined that the increased demands on staff with respect to education and enforcement activities necessitated replacing Ms. McGuire with a full-time attorney. Accordingly, after an extensive recruitment effort, the Commission hired Alison Adema in October of 2007 to serve as its full-time General Counsel. Ms. Adema is a seventeen-year attorney with extensive experience handling complex business and employment matters, including government regulatory issues.

Legislative

The majority of the Commission's legislative work during 2007 concerned the overhaul of the City's Lobbying Ordinance. After making its initial presentation to the City Council Rules Committee in October of 2006, the Commission considered input received at this meeting and returned to the Rules Committee with updated recommendations in March of 2007, at which time the Committee unanimously forwarded the proposed amendments to the full City Council. The City Council considered and approved the changes to the Lobbying Ordinance in July of 2007. At the request of the Ethics Commission, the new laws will not take effect until January 1, 2008, to enable the Commission to engage in education and outreach in the Fall of 2007.

The overhaul of the City's lobbying laws dramatically alters the registration threshold for different types of lobbyists. Instead of a threshold based on quarterly earnings, lobbying firms (entities that employ contract lobbyists who are paid to influence municipal decisions on behalf of clients) will be required to register if they become entitled to earn \$1 or more. On the other hand, organization lobbyists (companies whose employees are paid to influence municipal decisions on behalf of the company) will be required to register if their employees have a total of ten lobbying contacts within a sixty day period. These changes are intended to improve upon the prior system, which improperly equated earnings with influence and enabled many lobbyists to avoid registration and disclosure requirements.

In addition, the new lobbying laws will require registered lobbyists to disclose much more information concerning their lobbying efforts as well as their campaign activities in support of City candidates and elected officials. Specifically, lobbyists will be required to disclose the following information:

- the specific municipal decision influenced and outcome sought;
- identity of clients (including members of coalitions and membership organizations who pay \$1,000 or more for lobbying activities);
- compensation earned (rounded to nearest \$1,000);
- campaign fundraising efforts that result in \$1,000 or more raised for City candidates or candidate-controlled ballot measure committees;
- compensated campaign-related services; and
- compensated services provided under contract to the City.

In summary, the changes proposed by the Commission and approved by the City Council should ensure that the appropriate persons are registering as lobbyists, and that they are disclosing a sufficient amount of information to restore the public's trust in the lobbying process.

During the course of its work on the Lobbying Ordinance in 2006 and 2007, the Commission was asked to study the issue of ex-parte communications and consider drafting a policy or ordinance that would require City Officials to disclose ex-parte communications. While discussing this issue at its meeting on September 13, 2007, the Commission determined that it would be appropriate to obtain a legal opinion from the City Attorney's Office on various underlying issues before proceeding further. Accordingly, the staff requested an opinion on September 24, 2007.

During the 2007 calendar year, the Ethics Commission proposed several housekeeping amendments to the Audit Manual, which were approved by the City Council in October of 2007.

The Commission also proposed a minor change to the Election Campaign Control Ordinance during the past year. This change, which was approved by the City Council in October of 2007, will require local candidates to disclose the total amount given by each contributor for the entire election cycle (currently local candidates are only required to disclose the total given during the reporting period and the total given during the calendar year).

In October of 2007, the Ethics Commission began discussing several major policy issues concerning the City's campaign laws. Specifically, the Commission heard from the staff, the public, campaign consultants, fundraisers, and public policy advocates regarding whether or not the City's contribution limits should be increased or eliminated altogether, and whether the City should consider a system of public financing for City candidate elections. In this regard, the Commission hopes to compile a package of proposed amendments to present to the City Council in mid-2008.

In August and September of 2007, the Commission discussed a recommendation from Councilmember Madaffer that the Ethics Commission expand its jurisdiction to include approximately 750 City employees who are members of the classified service and who file Statements of Economic Interests. After considering the issue and receiving input from various parties, the Commission decided to recommend that its jurisdiction be expanded to include classified employees who are required to disclose their economic interests. As a result, Councilmember Madaffer asked

the Mayor's Office to include this issue in the "meet and confer" process between the City and its labor organizations in early 2008.

Finally, during 2007, the Commission and staff participated in the amendment of two laws in the California Political Reform Act. The first amendment, Assembly Bill 1441, was sponsored by the City of San Diego. The Commission staff worked with the City's Governmental Affairs Department, the Fair Political Practices Commission, and the Ethics Commissions in San Francisco and Los Angeles in an effort to ensure passage of this legislation. The Bill, which will enable local candidates and elected officials to open a separate bank account for legal defense fund purposes, was approved by the legislature and the Governor, and will take effect on January 1, 2008.

The second amendment, Assembly Bill 1430, sought to prohibit local jurisdictions from imposing restrictions or limits on payments made by political parties to communicate with their members. Evidence compiled during recent elections in San Diego indicates that special interests are funneling large contributions through political parties to the City candidates they support, and in so doing are rendering the City's contribution limits virtually meaningless. Accordingly, the Commission and staff opposed this legislation by sending a letter to the Bill's author, and by testifying at a Senate Committee hearing. Despite these efforts, as well as opposition by other local jurisdictions, Common Cause of California, and the League of California Cities, the bill was ultimately approved by the legislature and signed into law by the Governor.

Education and Outreach

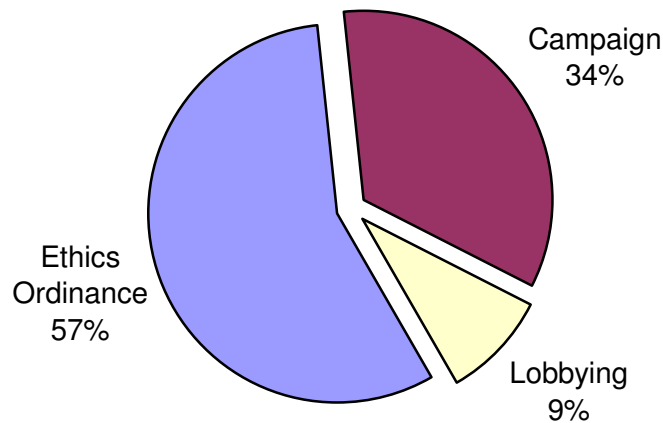
The Commission continued to make education and outreach top priorities during 2007. Specifically, these efforts include the following live training sessions:

- From March through May, the Commission staff conducted live training sessions on the Ethics Ordinance for the offices of Council Districts 1, 2, 3, 5, 6, and 7.
- Throughout 2007, the Commission staff conducted four live training sessions on the Ethics Ordinance for unclassified management employees of the City.
- In February of 2007, the Commission staff conducted a live training session for the board members and staff of the San Diego Convention Center Corporation. This training was tailored to reflect the unique characteristics of the agency.
- In March of 2007, the Commission staff conducted two live training sessions for City Officials concerning the disclosure of economic interests (annual Statements of Economic Interests are due on April 1 each year).
- The Commission staff conducted live training sessions for City candidates and their staff on the City's campaign laws in July and September. These training sessions are designed to provide all candidates (including grass roots candidates without professional campaign consultants) with basic information on the City's campaign laws in clear and simple terminology.
- The Commission staff conducted several live training sessions on the City's new lobbying laws in the Fall of 2007. In addition to two sessions open to all types of organizations and lobbyists, the staff conducted special live training sessions for the Lincoln Club, the Chamber of Commerce, the Labor Council (and affiliated labor organizations), and a group of non-profit advocacy organizations.
- In December, the Commission staff conducted live training sessions on the City's future employment and post-employment laws for the staffs of Council Districts 1, 3, and 7.

In addition to live trainings, the Commission staff prepared and distributed seven formal advice letters concerning provisions in the Lobbying Ordinance and the Ethics Ordinance.

The Commission staff also responded to nearly 500 requests for informal advice throughout the year from City Officials, City candidates, and lobbyists. These requests are generally in the form of telephone calls and e-mails, and allow City Officials, candidates, and lobbyists to obtain immediate assistance regarding the City's governmental ethics laws.

Informal advice provided by Commission staff may be broken down as follows:



The Commission's educational activities during the past year also included the preparation and distribution of the following publications:

- In May of 2007, the Commission staff published an Ethics Commission Candidate Manual. This manual is intended to serve as a supplement to the manual published by the Fair Political Practices Commission for Local Candidates.
- The Commission staff prepared and disseminated seven Fact Sheets concerning the provisions of the City's new lobbying laws. In addition, the Commission staff created new registration and disclosure forms that include detailed instruction pages for each of the schedules included within the forms.
- The Commission staff prepared and disseminated three new Fact Sheets on the following issues related to the City's Ethics Ordinance: Becoming an Unclassified City Employee, Joining a Board or Commission, and Disclosing Economic Interests
- The Commission staff updated seven previously-issued Fact Sheets related to the City's campaign laws and ethics laws.

Additional outreach efforts during 2007 included the following:

- The Commission continued to disseminate information to the public, the regulated community, City Officials, and the media, via three "interested persons" e-mail lists: one for campaign finance issues, one for ethics issues, and one for lobbying issues.
- The Commission staff worked with City's Cable Television Division to air a public service announcement concerning the new lobbying laws. The staff also worked with the City's Public Information Officers to arrange for information regarding the new lobbying laws to be posted in the elevators in the City Administration Building in January of 2008.
- The Commission staff worked with the San Diego Data Processing Corporation to overhaul the Commission's on-line ethics training application. The changes were primarily designed to enable the Commission staff to independently modify course content as necessary. The Commission's on-line training is designed primarily for volunteer members

of City boards and commissions who are unable to attend a live training session. During 2007, approximately 265 City Officials received ethics training via this on-line system.

- The Commission frequently updated its website (www.sandiego.gov/ethics) to provide the public with timely information regarding Commission meetings, legislative proposals, educational efforts, and enforcement activities.
- Throughout the past year, the Executive Director made presentations to groups inside and outside the City concerning the role of the Ethics Commission and the laws within its jurisdiction.

In addition to the foregoing, the Commission staff worked with the City's Information Technology and Communications Division to re-design the Commission's website. Since the Commission's inception in 2001, the information on the website has grown considerably, and a re-design was necessary in order to ensure that relevant information is easily accessible to City Officials, lobbyists, City candidates, and the general public.

Audit Program

During the 2007 calendar year, the Commission staff completed the audits from the 2004 election cycle, including audits of the following candidate and ballot measure committees.

Deborah Berger for City Attorney

Donna Frye for Mayor

San Diegans for Ron Roberts

Phil Thalheimer for City Council

Neighborhoods for Accountable Governments, a Committee Against Proposition F

The Yes on Proposition C Committee

On September 13, 2007, the Commission conducted a random drawing and the following candidate-controlled committees from the 2005-2006 election cycle were selected for audit:

FINANCIAL ACTIVITY BETWEEN \$10,000 AND \$49,000:

Remy Bermudez for City Council

Remy Bermudez for City Council '06

Ian Trowbridge for City Council

Pat Zaharopoulous for City Council

FINANCIAL ACTIVITY BETWEEN \$50,000 AND \$99,999:

Acle for City Council

Rich Grosch for City Council

Tony Young for City Council 2006

FINANCIAL ACTIVITY OF \$100,000 OR MORE:

Friends of Kevin Faulconer

Donna Frye for Mayor 2005

Lorena Gonzalez for City Council

Friends of Ben Hueso

Committee to Re-Elect Ben Hueso

Ralph Inzunza for City Council

Votepickard.com (Lincoln Pickard)

FINANCIAL ACTIVITY OF \$100,000 OR MORE (continued):

Richard Rider for Mayor
Jerry Sanders for Mayor
Mike Shelby
Friends of Michael Zucchet 2006

In addition, the following ballot measure committees were chosen at the random drawing:

FINANCIAL ACTIVITY BETWEEN \$10,000 AND \$49,999:

Citizens Against Corruption: No on C
(November 7, 2006 Election)

FINANCIAL ACTIVITY OF \$100,000 OR MORE:

San Diegans for City Hall Reform (in support
Of Prop B & C, November 7, 2006 Election)

San Diegans for Mt. Soledad National War Memorial (Support for
Prop A, July 26, 2005 Election)

The Ethics Commission staff began conducting the audits of candidate committees from the 2005-2006 election cycle shortly after the random drawing, and completed audits of the following committees during the calendar year:

Acle for City Council
Friends of Ben Hueso
Committee to Re-Elect Ben Hueso

As discussed above, the Commission proposed several housekeeping amendments to the Ethics Commission Audit Manual during this past year. These amendments clarify that Ethics Commission audits include the conduct of City candidates as it relates to their controlled committees. The amendments were approved by the City Council on October 9, 2007.

ENFORCEMENT – STATISTICS

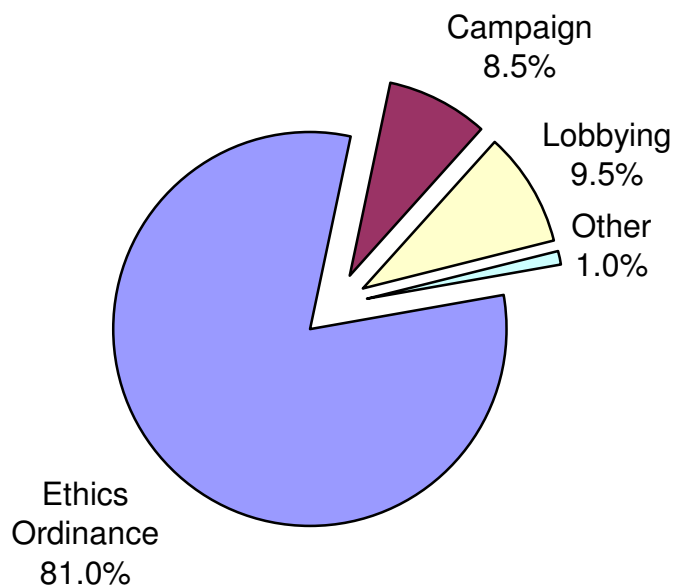
Number of Complaints

During 2007, the Ethics Commission processed a total of ninety-three complaints. Most of these complaints were in the form of formal, written complaints signed under penalty of perjury. At the discretion of the Executive Director, some informal complaints and referrals from the City Clerk were processed as formal complaints and are included in the statistics below.

Types of Complaints

Complaints received by the Ethics Commission concern alleged violations of law as follows:

- eight complaints alleged a violation of the Election Campaign Control Ordinance;
- nine complaints alleged a violation of the Lobbying Ordinance; and
- seventy-five complaints alleged a violation of the Ethics Ordinance; and
- one complaint alleged a violation outside of the Commission’s jurisdiction.



The fifty-two complaints alleging violations of the Ethics Ordinance can be broken down as follows:

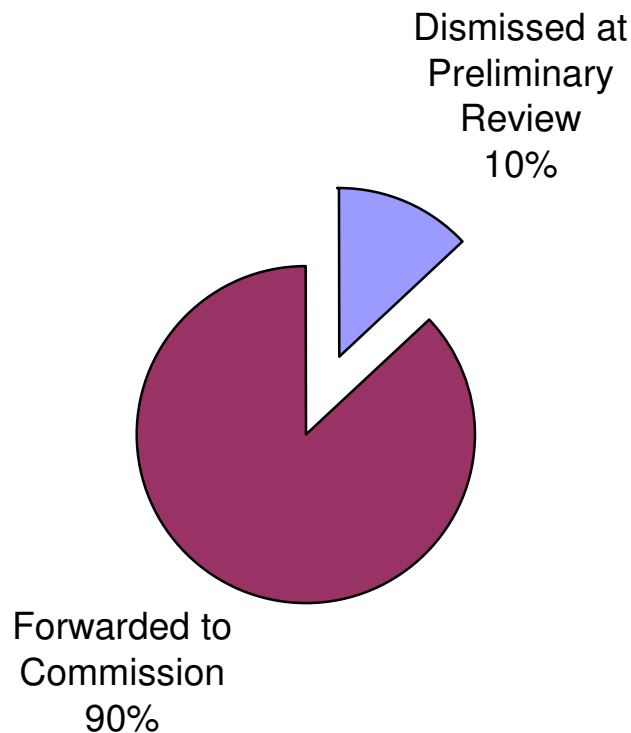
- sixty complaints concerned the late filing of Statements of Economic Interests;
- two concerned the alleged failure to disclose specific economic interests;
- nine complaints alleged the unlawful participation in municipal decisions that affected personal economic interests;
- two complaints concerned the misuse of an official's position;
- one complaint alleged the receipt of gifts in excess of the City's gift limit; and
- one complaint concerned alleged solicitation of campaign contributions from City employees.

Preliminary Review

Commission procedures require that the Executive Director evaluate each complaint in order to determine if the subject of the complaint falls within the jurisdiction of the Ethics Commission, if the matter is already being investigated by the Commission, if the complaint involves a matter previously disposed of by the Commission, or if the complaint is based on pure speculation.

In 2007, the Commission processed the ninety-three complaints it received as follows:

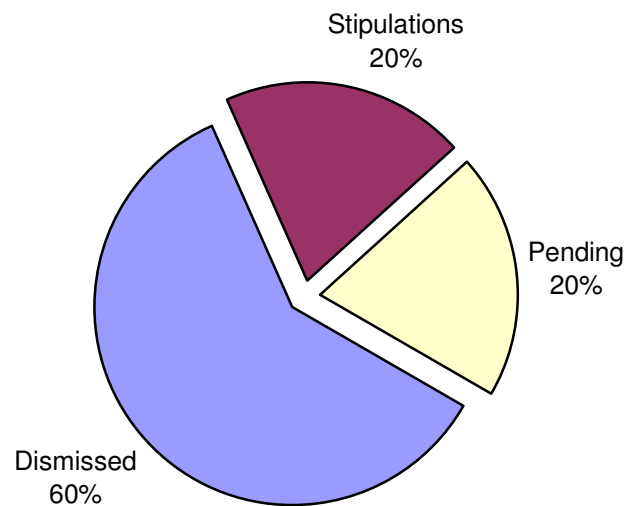
- Nine complaints were dismissed by the Executive Director during the preliminary review period;
- Eighty-four complaints were reviewed by the Executive Director during the preliminary review period and forwarded to the Commission for approval to commence a formal investigation; and



Investigations

Out of the eighty-four matters submitted to the Commission during 2007, fifty-seven were approved for formal investigations. These cases, together with the twenty-three cases approved for investigation but not resolved during 2006, and twenty matters approved for investigation but not resolved during 2005, resulted in the following disposition during the 2007 calendar year:

- sixty complaints were ultimately dismissed by the Commission after considering the results of staff investigation;
- twenty complaints resulted in stipulated settlement agreements; and
- twenty investigations are currently pending.



ENFORCEMENT - STIPULATIONS

During 2007, the Commission entered into twenty stipulations in lieu of proceeding with administrative enforcement actions.

Nine of these stipulations concerned campaign activities:

- Dwayne Crenshaw, a candidate for City Council District 4 in the November 2004 special election, agreed to pay a fine in the amount of \$500 for filing late campaign statements.
- Councilmember Tony Young agreed paid a fine in the amount of \$10,000 for failing to timely pay campaign vendors, failing to properly maintain campaign records, and failing to include proper “paid for by” disclosures on campaign literature.
- Gloria Tyler-Mallery, a candidate for City Council District 4 in the November 2004 special election, agreed to pay a fine in the amount of \$500 for filing late campaign statements.
- Matthew Moncayo, a candidate in the July 2005 special election for Mayor and the November 2005 special election for District 8, paid a fine in the amount of \$1,000 in connection with the late filing of campaign statements.
- Ron Roberts, a former candidate for Mayor in the 2000 and 2004 election cycles, paid a fine in the amount of \$1,000 for depositing contributor checks in the wrong committee bank account.
- Councilmember Ben Hueso and his campaign treasurer Beth Reno agreed to pay a fine in the amount of \$17,000 for accepting \$10,500 in contributions that exceeded the City’s per-contributor limit, miscoding contributions for a non-existent general election, and for distributing campaign literature without the requisite notice regarding reimbursement of contributions.
- Three candidates (Allen Hujsak, Lincoln Pickard, and Tim Gomez) each paid a nominal fine in the amount of \$100 for filing late campaign statements as part of the Commission’s streamlined program for late filers who had little or no information to disclose on their late reports.

Three of the stipulations executed during 2007 involved violations of the City's Lobbying Ordinance:

- Cynthia Morgan, an attorney with the Seltzer Caplan law firm, agreed to pay a \$5,000 fine for failing to register as a lobbyist and report her lobbying activities in connection with the proposed relocation of the Volunteers of America Rehabilitation Center from downtown to Pacific Beach.
- Julie M. Wright, President and CEO of the San Diego Regional Economic Development Corporation, paid a \$300 fine for late filing of lobbyist quarterly disclosure reports as part of a streamlined program for late filers who had little or no information to disclose on their late reports.
- Arturo Castanares, a registered lobbyist with CornerStone Strategies and FourSquare Creative Solutions, agreed to pay a \$4,500 fine for failing to timely renew his lobbyist registration and failing to timely file five lobbyist quarterly disclosure reports.

Finally, the Commission entered into seven stipulations in 2007 concerning the requirement in the City's Ethics Ordinance that City Officials file Statements of Economic Interests. The following seven officials agreed to pay fines ranging from \$100 to \$400 depending upon various factors in aggravation:

- Kirsten Clemons, member of the North Bay Project Area Committee
- Christopher Clifford, member of the North Bay Project Area Committee
- Jeffrey Dunnigan, member of the Arts and Culture Commission
- Susana Krieger, member of the Salary Setting Commission
- Anthony Lovio, member of the Crossroads Project Area Committee
- Andrea Roberts, member of the North Park Project Area Committee
- Steve Sobel, consultant to the Centre City Development Corporation

In addition, Councilmember Jim Madaffer paid a \$500 fine for failing to disclose several stock investments on his Statements of Economic Interests (although he

initially disclosed the stocks at the time of purchase, he failed to carry them forward on subsequent annual filings).

During 2007, the Commission levied a total of \$42,100 in administrative fines. These fines are paid to the City of San Diego's General Fund.