



THE CITY OF SAN DIEGO

September 14, 2015

VIA REGULAR & ELECTRONIC MAIL

Mr. Bryan Pease
Bryan Pease for City Council 2012
1901 First Ave., #219
San Diego, CA 92101

Re: Bryan Pease for City Council 2012 (ID # 1345261)

Dear Mr. Pease:

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 held on September 10, 2015. Although the report reflects material findings, the Commission decided that additional administrative remedies were not warranted for the reasons set forth below, and consequently voted to accept the report and take no further action.

With respect to the failure to maintain records supporting contributions and expenditures, the Commission considered the fact that you were ultimately able to locate and produce documents supporting the majority of the committee's financial activities, albeit several months after the effective conclusion of the audit. With respect to the failure to include a "paid for by" disclosure on one campaign advertisement, the Commission considered the fact that the committee's other advertisements did include the requisite disclosure, and therefore determined that education was more appropriate than enforcement.

Sincerely,

[REDACTED]

Rosalba Gomez
Audit Program Manager

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

September 1, 2015

Mr. Bryan Pease
Bryan Pease for City Council 2012
1901 First Ave., #219
San Diego, CA 92101

Treasurer: Bryan Pease
1901 First Ave., #219
San Diego, CA 92101

SAN DIEGO ETHICS COMMISSION AUDIT REPORT: *Bryan Pease for City Council 2012*

I. Introduction

This Audit Report contains information pertaining to the audit of the committee Bryan Pease for City Council 2012, Identification Number 1345261 (“the Committee”) for the period from January 12, 2012, through December 31, 2012. The Committee was selected for audit by a designee of the City Clerk in a random drawing conducted at a public meeting of the Ethics Commission held on September 12, 2013. 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 (San Diego Municipal Code Chapter 2, Article 7, Division 29). The Election Campaign Control Ordinance (ECCO) was amended on January 1, 2013. This Committee operated under the previous ECCO, and therefore all Code references in this report relate to the provisions of ECCO that were in effect prior to January 1, 2013.

During the period covered by the audit, the Committee reported total contributions of \$14,012.45 and total expenditures of \$14,012.70. Total cash contributions relative to total expenditures resulted in a \$0.25 differential that was reconciled by the Committee’s miscellaneous increase to cash. **The audit revealed three material findings:**

- **the committee failed to maintain two categories of campaign records in violation of San Diego Municipal Code section 27.2925; and**
- **the committee failed to include a “paid for by” disclosure on one mass media advertisement in violation of San Diego Municipal Code section 27.2974.**

Ethics Commission

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II. Committee Information

On February 13, 2012, the Committee filed a Statement of Organization with the San Diego City Clerk indicating that it qualified as a committee. The Committee was formed to support the election of Bryan Pease for Council District 1 in the June 5, 2012, primary election. On January 31, 2013, the Committee filed a Statement of Termination indicating that its filing obligations were completed on December 12, 2012. The Committee's treasurer was Bryan Pease.

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. 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 applicable filing deadlines;
3. Compliance with restrictions on contributions, loans and expenditures;
4. Accuracy of total reported receipts, disbursements and cash balances as compared to bank records; and
5. Compliance with all record-keeping requirements.

V. Summary of Applicable Law

Section 27.2925 - Accounting

- (a) In addition to any other requirement of this division, every candidate or committee that accepts contributions for a City election shall maintain records in accordance with the requirements of title 2, section 18401 of the California Code of Regulations.
- (b) The records required by section 27.2925(a) and 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.
- (c) 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.
- (d) 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.

California Code of Regulations Section 18401– Required Recordkeeping

(a) Maintenance of Documents

A candidate, treasurer, and elected officer has a duty to maintain detailed accounts, records, bills, and receipts as necessary to prepare campaign statements and comply with the provisions of Chapter 4 (commencing with Section 84100) of the Act. This duty includes the maintenance of detailed information and original source documentation, as follows:

- (1) For a contribution received or other receipts of less than \$25, or an expenditure made of less than \$25:
 - (A) The accounts and records shall contain a continuous computation of campaign account balances, and include a listing reflecting the dates and daily totals of the contributions, other receipts, or expenditures on the dates of the contributions, other receipts, or expenditures.
 - (B) The original source documentation shall consist of all bank statements, check registers, check stubs, bank or passbooks, and any other records reflecting a continuous computation of campaign account balances in any savings or checking account, money market account, certificate of deposit, credit card account, or any other campaign account, in any bank or other financial institution.
- (2) For a contribution received of \$25 or more, but less than \$100, and for other receipts of \$25 or more:
 - (A) The accounts and records shall contain all information required in subdivision (a)(1)(A), and include the date of each contribution or other receipt, the amount, and the full name and street of the contributor or the source of the other receipt. In the case of a contribution, the accounts and records shall also contain the cumulative amount received from the contributor and specify whether the contribution is monetary or nonmonetary. In the case of a nonmonetary contribution, the fair market value shall also be recorded, along with a description of the goods or services received. If a contribution is received through an intermediary or agent, as defined in Regulation 18432.5, the accounts and records shall also contain the full name and street, occupation, and employer (or, if self-employed, the name of the principal place of business) of the intermediary or agent and of the true source of the contribution.
 - (B) The original source documentation shall consist of all items required in subdivision (a)(1)(B), and copies of contributor checks, cashier's checks, money orders, wire transfers, deposits or duplicate deposit slips, and any other documents, reflecting all items deposited, and all deposits made, to any campaign account, in any bank or other financial institution. Original source documentation shall include contributor cards, letters of transmittal, and notices received from contributors. In the case of a nonmonetary contribution, if the contributor has not provided the value of the nonmonetary contribution, the original source documentation shall also include a

memorandum or other record describing the method used to determine the value of the goods or services contributed. In the case of contributions made through wire transfer, credit card transaction, debit account transaction, or similar electronic payment option (including those via the Internet), the original source documentation shall also include all credit card receipts, transaction slips or other writings signed by the contributor, credit card vouchers, and other documentation of credit card transactions, including credit card confirmation numbers and itemized transaction reports, as well as any other information collected when debiting the contributor's account. In the case of contributions made through electronic transactions via the Internet, original source documentation shall also include a records of the transaction created and transmitted by the cardholder including the name of the cardholder, the cardholder's address and the card number.

(3) For a contribution received of \$100 or more:

- (A) The accounts and records shall contain all information required in subdivisions (a)(1)(A) and (a)(2)(A), and include the occupation and employer (or, if self-employed, the name of the principal place of business) of the contributor. Section 85700 requires the return, not later than 60 days from receipt, of a contribution of \$100 or more for which the candidate or committee does not have on file the name, address, occupation and employer of the contributor. Regulation 18570 sets forth additional recordkeeping requirements concerning occupation and employer information.
- (B) The original source documentation shall consist of all items required in subdivisions (a)(1)(B) and (a)(2)(B), and all communications caused to be sent by the candidate, treasurer, elected officer, or committee to secure this information.

(4) For an expenditure of \$25 or more, or a series of payments for a single product or service totaling \$25 or more:

- (A) The accounts and records shall contain the date the expenditure was made (or, for an accrued expense, the date the goods or services were received), the amount of the expenditure, the full name and street address of the payee, and a description of the goods or services for which each expenditure was made. If the person or vendor providing the good or services is different from the payee, the accounts and records shall also contain the same detailed information for that person or vendor. For an expenditure that is a contribution to another candidate or committee, or an independent expenditure, the records shall also contain the cumulative amount of the contributions to, or independent expenditures to support or oppose, each candidate, committee, or ballot measure.
- (B) The original source documentation shall consist of cancelled checks, wire transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other documents reflecting obligations incurred by the candidate, elected officer, campaign treasurer, or committee, and disbursements made from any checking or savings account, or any other campaign accounts, in any bank or other financial institution. In lieu of cancelled checks, the original source documentation may consist of copies of cancelled checks that contain a legible image of the front and back of the cancelled check, provided the copy was obtained from the financial institution.

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San Diego Municipal Code Section 27.2974 – Mass Media Advertisements

- (a) It is unlawful for any candidate of committee to pay for advertising in a regularly published newspaper, periodical, or magazine of general circulation, or on any Internet web page, for the purpose of supporting or opposing one or more City measures or candidates for elective City office unless the advertisement includes the words “paid for by” followed by the name of that candidate or committee.

....

VI. Material Findings

Section 27.2925 – Failure to Maintain Records

Government Code Section 84104 provides that it is the duty of each candidate, treasurer and elected officer to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements, and to retain the documents for a period of four years following the date the appropriate campaign statement is filed. Section 84104 is incorporated into ECCO at SDMC section 27.2925. On September 18, 2013, the Committee was notified that it was selected for audit and was advised to review the recordkeeping requirements and begin organizing its records. On October 21, 2014, the Committee was notified that the audit review would commence in December of 2014, and was provided with a list of records that would be required for the audit.

Between December of 2014 and March of 2015, the Auditor contacted the Committee on no less than seven occasions to report that requisite documents were missing, and to ask the Committee to identify and produce them. As explained in detail below, the Committee produced some, but not all, of the missing documents following the post-audit conference held on April 23, 2015. Ultimately, the Committee was unable to produce records supporting many of the contributions it received and expenditures it made. As a result, the Auditor was unable to determine the accuracy of campaign statements, and was unable to confirm that contributions and expenditures were lawful.

Additional details concerning the Committee’s failure to maintain contribution and expenditure records are as follows:

1. The Committee reported \$14,012.45 in total contributions. During the audit, the Committee was unable to produce copies of any remittance slips, contributor checks, credit card confirmation emails and/or other supporting documentation for contributions totaling \$8,409.45 (60% of total reported contributions). At the post-audit conference held on April 23, 2015, Mr. Pease acknowledged that the Committee failed to maintain the necessary documentation. Subsequent to the post-audit conference, Mr. Pease obtained copies of additional contributor checks totaling \$4,881.00 from the Committee’s banking institution, leaving a total of \$3,528.45 of contributions without supporting documentation (25% of total reported contributions).

The Committee’s failure to maintain documents supporting these contributions prevented the Auditor from: verifying the contribution amounts and receipt dates reported on campaign statements; verifying that contributions were correctly aggregated for each contributor; and verifying that contributions made from a joint account were attributed to the correct individual. Additionally, the recordkeeping violations prevented the Auditor from verifying that the Committee did not accept contributions in excess of the contribution limit or contributions from a prohibited source.

The following table lists both the itemized contributions (as reported on campaign statements) and the total amount of unitemized contributions that did not have supporting documentation:

Date Received	Last Name	First Name	Amount
3/15/12	Kohl	Jana	\$ 500.00
2/27/12	Lynch	Davina	\$ 500.00
1/17/12	Pease	Bryan	\$ 100.00
3/9/12	Pease	Bryan	\$ 500.00
2/15/12	Singleton	Gerald	\$ 500.00
2/11/12	Sloderbeck	Jacklyn	\$ 500.00
Unknown	Unitemized		\$ 928.45
			<u>\$ 3,528.45</u>

- The Committee reported \$14,012.70 in total expenditures. During the audit, the Committee was unable to produce copies of any bills, invoices, receipts, or other supporting documentation for 25 expenditures totaling \$3,174.72 (23% of total reported expenditures); however, at the post-audit conference held on April 23, 2015, Mr. Pease provided additional documentation supporting expenditures totaling \$1,589.35, leaving a total of \$1,585.37 of expenditures without supporting documentation (11% of total reported expenditures).

The Committee’s failure to maintain the requisite supporting documents prevented the Auditor from verifying that the expenditures were made for an allowable campaign purpose and not for personal use. (The Auditor was able to verify the dates and amounts of expenditures reported on campaign statements as the expenditures were all made via check or debit card and reflected on bank statements.)

The following table lists the expenditures that did not have supporting documentation:

	Vendor	Amount
1	Advantage Printing	\$ 345.50
2	City Treasurer	\$ 178.25
3	County of San Diego	\$ 150.85
4	PayPal	\$ 190.29
5	County of San Diego	\$ 51.72

	Vendor	Amount
6	Rite Aid	\$ 37.69
7	Advantage Printing	\$ 10.08
8	List America	\$ 555.00
9	FedEx	\$ 38.99
10	GiveDirect.org	\$ 27.00
		<u>\$ 1,585.37</u>

Section 27.2974: Failure to Include “Paid for By” Disclosure in Mass Media Advertisements

SDMC Section 27.2974 requires committees that pay for mass media advertisements to include the words “paid for by” immediately followed by the name of the committee. The Committee paid for a newspaper advertisement in the La Jolla Village News. The Committee failed to include the requisite “paid for by” disclosure in the newspaper advertisement, which in turn deprived the public of information concerning the source of funding for the advertisement.

At the post-audit conference held on April 23, 2015, Mr. Pease acknowledged the mistake and maintained it was unintentional.

VII. Conclusion

The audit revealed the following three material findings:

- **the committee failed to maintain two categories of campaign records in violation of San Diego Municipal Code section 27.2925; and**
- **the committee failed to include a “paid for by” disclosure on one mass media advertisement in violation of San Diego Municipal Code section 27.2974.**

[REDACTED]

 Rosalba Gomez
 Audit Program Manager

 Date

[REDACTED]

 Stacey Fulhorst
 Executive Director

 Date