THE CITY OF SAN DIEGO

February 14, 2006

Catherine Anderson, Treasurer
Peter Q. Davis for Mayor
4431 Pt. Vicente
Oceanside, CA 92054

Re: Ethics Commission Audit of Peter Q. Davis for Mayor Committee ID # 1259838

Dear Ms. Anderson:

The Ethics Commission audit of the above-referenced committee is now concluded, and the Final Audit Report is enclosed. This report was presented to the Ethics Commission at its regularly-scheduled meeting on February 9, 2006.

If you have any questions concerning the foregoing, please contact me at your convenience. Thank you for your assistance and cooperation during the course of the audit.

Sincerely,

Stacey Fulhorst
Executive Director

SF/s

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

February 9, 2006

Peter Q. Davis
Peter Q. Davis for Mayor
1610 Kearsarge Road
La Jolla, CA 92037

Catherine Anderson, Treasurer
Peter Q. Davis for Mayor
4431 Pt. Vicente
Oceanside, CA 92054

SAN DIEGO ETHICS COMMISSION
AUDIT REPORT:
Peter Q. Davis for Mayor

I. Introduction

This Audit Report contains information pertaining to the audit of the committee Peter Q. Davis for Mayor, Identification Number 1259838 (the "Committee") for the period from October 10, 2003, through September 29, 2004. The audit was conducted to determine whether the Committee materially complied with the requirements and prohibitions imposed by the Political Reform Act ("the Act") (Government Code Section 81000, *et seq.*) and 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 5, 2005. This Committee operated under the previous ECCO, therefore all Code references in this report relate to the provisions of ECCO effective prior to January 5, 2005.

During the period covered by the audit, the Committee reported total contributions of $924,099.08, including $21,411.81 in non-monetary contributions, and total expenditures of $903,933.06. **The audit revealed four material findings: (1) the Committee violated San Diego Municipal Code section 27.2931 and Government Code section 84303 by failing to report nine payments made by an agent or independent contractor; (2) the Committee violated San Diego Municipal Code section 27.2944 by failing to report six accrued expenses; (3) the Committee violated San Diego Municipal Code section 27.2941 by accepting two contributions that exceeded the contribution limit, and (4) the Committee violated San Diego Municipal Code section 27.2931 and Government Code section 84211 by failing to disclose one contribution.**

II. Committee Information

The Committee was formed to support the election of Peter Q. Davis for Mayor in the March 2, 2004 election. On October 10, 2003, Mr. Davis filed a Form 501 "Candidate Intention Statement" and Form 410 "Statement of Organization" with the San Diego City Clerk. The Committee filed a Form 460 termination on September 29, 2004. The Committee's treasurer was Catherine Anderson.

III. Audit Authority

The San Diego Ethics Commission (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 State and 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

San Diego Municipal Code section 27.2931 – Campaign Statement Disclosures

Each candidate and committee shall file campaign statements in the time and manner required by California Government Code sections 81000 et seq. Compliance with the disclosure requirements of California Government Code sections 81000 et seq. is deemed to be compliance with this section.

Government Code section 84303 – Expenditure by Agent or Independent Contractor

No expenditure of five hundred dollars ($500) or more shall be made, other than overhead or normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of or for the benefit of any candidate or committee unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate

or committee. The agent or independent contractor shall make known to the candidate or committee all information required to be reported by this section.

San Diego Municipal Code section 27.2944(b) – Payment and Disclosure of Payment for Goods and Services

(b) Every candidate and committee shall disclose expenditures in the same time and manner required by California Government Code section 84211. An expenditure which has been incurred but not paid during a reporting period shall be disclosed as an accrued expense.

San Diego Municipal Code section 27.2941(a) - Contribution Limits

(a) It is unlawful for a candidate, committee supporting or opposing a candidate, or individual acting on behalf of a candidate or committee to solicit or accept from any other individual a contribution which will cause the total amount contributed by that other individual in support of or opposition to a candidate to exceed two hundred fifty dollars ($250) for any single election.

Title 2, section 18533(a) of the California Code of Regulations - Contributions from Joint Checking Accounts

(a) A contribution made from a checking account by a check bearing the printed name of more than one individual shall be attributed to the individual whose name is printed on the check and who signs the check, unless an accompanying document directs otherwise. The document shall indicate the amount to be attributed to each contributing individual and shall be signed by each contributing individual whose name is printed on the check. If each individual whose name is printed on the check signs the check, the contribution shall be attributed equally to each individual, unless an accompanying document signed by each individual directs otherwise.

If the name of the individual who signs the check is not printed on the check, an accompanying document, signed by the contributing individuals, shall state to whom the contribution is attributed.

Government Code section 84211(f) – Contents of Campaign Statements

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

(f) If the cumulative 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.

VI. Material Findings

A. Violation of San Diego Municipal Code section 27.2931 – Campaign Statements and Disclosures, and Government Code section 84303 – Expenditure by Agent or Independent Contractor

The Committee failed to disclose nine payments made by an agent or independent contractor as follows:

Period Ending		Name of Agent / Independent Contractor	Amount	Subvendor
1	12/31/03	Scott Barnett	$600.00	Lincoln Club
2	12/31/03	Jennifer Bowden	$555.00	U.S. Postmaster
3	02/14/04	Scott Barnett	$12,500.00	WCM QSub-26 Inc.
4	02/14/04	PRB Associates	$2,826.62	Creative Services of New England
5	02/14/04	JCA Com, Inc.	$766.13	U.S. Postmaster
6	06/30/04	Scott Barnett	$2,850.00	WCM QSub-26 Inc.
7	06/30/04	Scott Barnett	$37,500.00	WCM QSub-26 Inc.
8	06/30/04	JCA Com, Inc.	$24,682.85	U.S. Postmaster
9	06/30/04	PRB Associates	$713.20	Creative Services of New England
Total			$82,993.80	

Each of the above listed expenditures was reported in a timely manner on the Committee's campaign statements; however, the subvendor was not disclosed.

At the post-audit conference, held on November 29, 2005, the Committee pointed out that it did disclose some (fourteen) payments to subvendors, and that these nine omissions were oversights.

B. Violation of San Diego Municipal Code section 27.2944 – Payment and Disclosure of Payment for Goods or Services

The Committee failed to disclose six accrued expenses as follows:

Period Ending		Payee	Amount	Check #
1	12/31/03	News Monitoring Services	$110.00	1298
2	01/17/04	The V-Team Consulting	$5,750.00	1587
3	01/17/04	Barry Layne	$2,136.00	1622
4	02/14/04	JCA Com, Inc.	$1,183.79	1714
5	02/14/04	Maryanne Pintar	$193.09	1667
6	02/14/04	Maryanne Pintar	$703.21	1666
Total			$10,076.09	

Each of the above listed expenditures was reported on the Committee's campaign statements in the period paid.

At the post audit conference, the Treasurer explained that her normal practice was to pay invoices within days of being received; therefore, she speculated that the other Committee representatives did not submit these invoices to her in a timely manner.

C. Violation of San Diego Municipal Code section 27.2941 - Contribution Limits

Three contributions were attributed to the wrong person, resulting in the acceptance of two contributions over the $250.00 limit.

Contributions of $250.00 each were reported from G. Williams Rutherford and Anna Rutherford; however, both checks were signed by their daughter, Amanda May. The Committee did not obtain an accompanying document, signed by the contributing individuals, stating their intent to contribute. Ms. May also contributed $250.00; therefore, her combined contributions total $750.00. Upon becoming aware of this error during the course of the audit, the Committee remitted $500.00 to the City Clerk.

At the post audit conference, the Committee explained that Mr. and Mrs. Rutherford are related to, and strong supporters of, the candidate, and had verbally expressed (to the candidate) their intent to contribute. Their daughter, Ms. May, had power of attorney and signed all their checks during this time period.

The Committee received a $250.00 contribution from Walter Albright drawn on the joint account of Walter and Janet Albright. In addition, the Committee received a $213.00 contribution attributed to Janet Albright drawn from the same joint checking account; however, the check was signed by Walter Albright. The Committee did not maintain an accompanying document, signed by Mrs. Alright, stating her intention to contribute.

At the post audit conference, the Committee pointed out that the two checks were received over two months apart, and the signatures are difficult to read, making it highly unlikely the Treasurer would notice it was the same signature.

D. Violations of San Diego Municipal Code section 27.2931 – Campaign Statements and Disclosures, and Government Code section 84211 – Contents of Campaign Statement

The Committee failed to disclose contributor William J. Bowdle, who contributed $250.00 via check dated January 27, 2004. The Committee properly disclosed over 400 contributions of $100.00 or more. This one omission appears to be an oversight.

At the post audit conference, the Committee reiterated their intent to disclose all contributions and stated the omission of this one contribution was an oversight.

VII. Conclusion

Through the examination of the Committee's records and campaign disclosure statements, the Auditor verified that the Committee maintained all necessary documentation regarding contributions and expenditures and timely filed all campaign statements. **However, the audit revealed four material findings: (1) the Committee violated San Diego Municipal Code section 27.2931 and Government Code section 84303 by failing to report nine payments made by an agent or independent contractor; (2) the Committee violated San Diego Municipal Code section 27.2944 by failing to report six accrued expenses; (3) the Committee violated San Diego Municipal Code section 27.2941 by accepting two contributions that exceeded the contribution limit, and (4) the Committee violated San Diego Municipal Code section 27.2931 and Government Code section 84211 by failing to disclose one contribution.**

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DeeDee Alari, CPA, CIA, CFE — Date
Financial Investigator

_____ _____

Lauri Davis — Date
Senior Investigator