THE CITY OF SAN DIEGO

September 19, 2007

Supervisor Ron Roberts
San Diegans for Ron Roberts (ID #1260553)
c/o Mr. James R. Sutton
150 Post Street, Suite 405
San Francisco, CA 94108

Re: Ethics Commission Audit

Dear Supervisor Roberts:

The Ethics Commission audit of the above-referenced committee was concluded on September 10, 2007; the Final Audit Report is enclosed. This report was presented to and accepted by the Ethics Commission at its monthly meeting held on September 13, 2007.

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,

Francisco Murillo
Auditor

cc: F. Lawrence Scott, Jr., Treasurer

THE CITY OF SAN DIEGO

FINAL AUDIT REPORT

September 10, 2007

Supervisor Ron Roberts
San Diegans for Ron Roberts (ID #1260553)
3482 Jackdaw Street
San Diego, CA 92103

SAN DIEGO ETHICS COMMISSION AUDIT REPORT:
San Diegans for Ron Roberts

Treasurer: F. Lawrence Scott, Jr.
330 Encinitas Blvd., Suite 101
Encinitas, CA 92024

I. Introduction

This Audit Report contains information pertaining to the audit of the committee, "San Diegans for Ron Roberts" (ID #1260553, "the 2004 Committee") for the period from November 10, 2003, through December 31, 2006. The Committee was selected for audit by the Ethics Commission at a random drawing conducted on April 25, 2005. 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). In addition, our Audit Manual states that if a committee controlled by a candidate is selected for audit, then any other City of San Diego committees controlled by the same candidate during the audit period shall be included in the audit. Therefore, we also audited the Ron Roberts for Mayor Committee (ID #983539, "the 2000 Committee") for the period from November 10, 2003, through March 14, 2005, the date the committee was terminated.

During the period covered by the audit, the 2004 Committee reported total contributions of $787,160.74 from 3,829 contributors and total expenditures of $786,590.72. The difference between total contributions and total expenditures of $570.02 plus miscellaneous increases to cash of $622.50 equal the Committee's remaining cash balance of $1,192.52 at the end of the audit period.

The audit revealed thirty material findings with regard to the 2004 Committee: **(1)** the 2004 Committee violated current SDMC section 27.2916(c) and former SDMC section 27.2921(c) by failing to deposit fourteen contributions into the Committee's bank account; **(2)** the 2004 Committee violated current SDMC section 27.2930 and former SDMC section 27.2931 by under-reporting total contributions in two reporting periods; and **(3)** the 2004 Committee violated current SDMC section 27.2930 and former SDMC section 27.2931 by failing to disclose contributor information on election campaign statements relating to fourteen contributions.

The audit also revealed two material findings with regard to the 2000 Committee: **(1)** the 2000 Committee violated former SDMC section 27.2941(a) by accepting and depositing one contribution in excess of contribution limits; and **(2)** the 2000 Committee violated former SDMC section 27.2948 by failing to remit the excess contribution to the City Clerk.

A post-audit conference was conducted on August 9, 2007 in order to discuss the material findings with the committee. The Auditor met with Nancy Haley, assistant Treasurer, and Jim Sutton, counsel for the 2000 and 2004 Committees.

II. Committee Information

The 2004 Committee filed a Statement of Organization (Form 410) with the San Diego City Clerk on December 31, 2003, indicating that it qualified as a committee on December 18, 2003. The 2004 Committee was formed to support the election of Ron Roberts for Mayor in the November 2, 2004 election. As of December 31, 2006, the 2004 Committee remained open.

The 2000 Committee was formed to support the election of Ron Roberts for Mayor in the November 7, 2000 election. The committee was terminated on March 14, 2005.

III. Audit Authority

The Commission is mandated by SDMC 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 Committees' 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

Committee Bank Account

SDMC § 27.2916(c)

All *contributions* of money or checks, or anything of value converted by such *committee* to money or a check, shall be placed in the *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 *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.

SDMC § 27.2921(c) (prior to January 5, 2005)

Upon opening of an account, all *contributions* of money or checks, or anything of value converted by such *candidate* or *committee* to money or a check, made to a *candidate*, to an individual on behalf of a *candidate*, to a *committee* supporting or opposing a *candidate* or a City *measure*, or to an individual on behalf of a *committee* supporting or opposing a *candidate* or a *City* measure shall be placed in the *candidate's* or *committee*'s checking account within twenty business *days*.

Reporting Requirements

SDMC § 27.2930
SDMC § 27.2931 (prior to January 5, 2005)

Each *candidate* and *committee* shall file campaign statements in the time and manner required by California Government Code sections 81000 *et seq.*

The above provisions of the SDMC incorporate California Government Code section 84211, which states:

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.

Contribution Limits and Return of Contributions

SDMC § 27.2941(a) (prior to January 5, 2005)

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 in support of or opposition to a *candidate* to exceed two hundred fifty dollars ($250) for any single *election*.

SDMC § 27.2948(c) (prior to January 5, 2005)

If a *candidate*, *committee*, or *committee treasurer* deposit into the campaign a monetary *contribution* the acceptance of which constitutes a violation of this division, the *candidate*, *committee*, or *committee treasurer* shall within ten calendar *days* of the date of the *candidate*'s, *committee*'s, or *committee treasurer*'s discovery of the violation provide in writing to the *City Clerk* all facts pertaining to the *contribution*, including but not limited to:
(1) a copy of any check(s), draft(s), or other instrument(s) by which the *contribution* was made; and
(2) if made in cash, a report of the amount and denominations of currency tendered and a

legible photocopy of the bank deposit slip; and
(3) if by wire or other electronic fund transfer, a legible printout or photocopy of the bank deposit slip; and
(4) a report of the means of tender, delivery or confirmation of the *contribution* (e.g. U.S. Postal Service or private mail, courier service, in *person*, etc.); and
(5) a report of the full name and street address of the contributor.

SDMC § 27.2948(d) (prior to January 5, 2005)

The *candidate* or *committee treasurer* shall promptly deliver from available funds, if any, an amount equal to any monetary *contribution* constituting a violation of this division that is deposited into the campaign *contribution* checking account to the *City Clerk* and made payable to the *City Treasurer*. The *City Treasurer* shall deposit any *contribution* or equivalent amount he or she receives under Section 27.2948 into the *City*'s General Fund.

VI. Material Findings

A. Violation of current SDMC section 27.2916(c) and former SDMC section 27.2921(c)

The 2004 Committee failed to deposit fourteen contributions into its own bank account. Instead, contributions payable to the 2004 Committee were received and subsequently deposited into the 2000 Committee's campaign bank account. The following contributions were deposited into the wrong account:

No.	Date	Amount	Contributor
1	6/30/2004	$ 150.00	Anderson, David C.
2	6/30/2004	150.00	Anderson, Joanne F.
3	6/30/2004	250.00	Cavanaugh, Adria
4	6/30/2004	250.00	Cavanaugh, Sean
5	6/30/2004	250.00	Tartre, Mary B.
6	6/30/2004	250.00	Tartre, Richard D.
7	1/31/2005	250.00	Tayebi, Massih
8	2/1/2005	250.00	Black, Donna C.
9	2/1/2005	250.00	Frager, John D.
10	2/1/2005	250.00	Muna, Ed
11	2/1/2005	250.00	Stengel, Beverly
12	2/1/2005	250.00	Tecca, Bradley
13	2/1/2005	250.00	Webb, Carla
14	2/1/2005	250.00	Webb, Wayne E.
	Total	$ 3,300.00	

During the post-audit conference, the 2004 Committee responded that the assistant treasurer believed that she could deposit these checks into the 2000 Committee, given that the 2000 Committee was controlled by the same candidate, and that no provision of City or state law, or state or local campaign disclosure manuals, explicitly discusses what procedures committees should follow in this situation.

B. Violation of current SDMC section 27.2930 and former SDMC section 27.2931

The 2004 Committee under-reported total contributions on election campaign statements for the periods ended June 30, 2004 (under-reported by $1,300.00) and June 30, 2005 (under-reported by $2,000.00) when it failed to disclose fourteen contributions it received, but did not deposit as explained above in section VI.A.

In addition, the 2004 Committee failed to disclose contributor information related to the fourteen contributions, itemized in the table above in section VI.A., each of which totaled one hundred dollars ($100) or more.

C. Violation of former SDMC section 27.2941(a)

The 2000 Committee accepted a $100.00 contribution from Wendy Lee on July 9, 2003, causing the cumulative amount contributed by Ms. Lee to the 2000 committee for the general election to be $300.00, which exceeded the contribution limit by $50.00.

During the post-audit conference, the 2000 Committee responded that its acceptance of this over-the-limit contribution was inadvertent, and should not be deemed material in light of the total contributions received over the course of the campaign.

D. Violation of former SDMC section 27.2948

The 2000 Committee failed to remit an excess contribution of $50.00 from Wendy Lee to the City Clerk. Instead, the 2000 Committee refunded the excess contribution amount of $50 directly to Ms. Lee on December 31, 2003.

During the post-audit conference, the 2000 Committee opined that this violation is de minimis and should be considered immaterial in light of the small dollar amount and single occurrence.

VII. Conclusion

Through the examination of the Committees' records and campaign disclosure statements, the Auditor verified that the Committees timely disclosed all contributions received and all expenditures made and that the Committees 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 thirty material findings with regard to the 2004 Committee: **(1)** the 2004 Committee violated current SDMC section 27.2916(c) and former SDMC section 27.2921(c) by failing to deposit fourteen contributions into the Committee's bank account; **(2)** the 2004 Committee violated current SDMC section 27.2930 and former SDMC section 27.2931 by under-reporting total contributions in two reporting periods; and **(3)** the 2004 Committee violated current SDMC section 27.2930 and former SDMC section 27.2931 by failing to disclose contributor information on election campaign statements relating to fourteen contributions.

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Francisco Murillo, CPA — Date
Ethics Commission Auditor

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Lauri Davis — Date
Senior Investigator

cc: F. Lawrence Scott, Jr., Treasurer