

**Ethics Commission**

May 12, 2023

Mr. Sam Nejabat  
Sam Nejabat for City Council 2020  
1787 Tribute Road, Suite K  
Sacramento, CA 95815

SENT VIA-EMAIL

Re: Sam Nejabat for City Council 2020 (ID # 1422423)

Dear Mr. Nejabat:

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 May 11, 2023. Although the report reflects one material finding, the Commission does not believe that the finding warrants an additional administrative remedy. In summary, the Commission determined that education was more appropriate than enforcement in this situation. As a result, the Commission voted to accept the report and take no further action.

Sincerely,

[REDACTED]

Rosalba Gomez  
Audit Program Manager

Enclosure

cc: Ms. Shawnda Deane, Treasurer  
1787 Tribute Road, Suite K  
Sacramento, CA 95815

# FINAL AUDIT REPORT

April 25, 2023

Mr. Sam Nejabat  
Sam Nejabat for City Council 2020  
1787 Tribute Road, Suite K  
Sacramento, CA 95815

Treasurer: Shawnda Deane  
1787 Tribute Road, Suite K  
Sacramento, CA 95815

## **SAN DIEGO ETHICS COMMISSION AUDIT REPORT: *Sam Nejabat for City Council 2020***

### **I. Introduction**

This Audit Report contains information pertaining to the audit of the committee, Sam Nejabat for City Council 2020, Identification Number 1422423 (“the Committee”) for the period from November 8, 2019, through April 9, 2020. 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 9, 2021. 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) has been amended on several occasions; all Municipal Code references in this report relate to the provisions of ECCO that were in effect at the time of the actions described herein.

During the period covered by the audit, the Committee reported total contributions of \$335,478.58 (inclusive of \$116.00 in non-monetary contributions) and total expenditures of \$336,862.58. Total cash contributions relative to total expenditures resulted in a \$1,500.00 differential that was reconciled by the Committee’s miscellaneous increase to cash. **The audit revealed one material finding: the committee failed to include the “paid for by” disclosure in telephone communications in violation of San Diego Municipal Code section 27.2970.**

### **II. Committee Information**

On November 22, 2019, 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 Sam Nejabat for Council District 1 in the March 3, 2020, primary election. On April 20, 2020, the Committee filed a Statement of Termination indicating that its filing obligations were completed on April 9, 2020. The Committee's treasurer was Shawnda Deane of Deane & Company.

### **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**

#### **Definitions**

*Telephone communications* means any live or recorded telephone calls that are authorized or paid for by a candidate or committee for the purpose of supporting or opposing one or more *City candidates* or *City Measures*.

#### **Section 27.2970 – Disclosures on Campaign Advertisements**

- (a) Subject to the additional requirements and exceptions expressly noted in section 27.2970, and limited to advertisements concerning *City candidates* and *City measures*, the campaign advertising disclosure rules included in the Political Reform Act of 1974, as amended, including but not limited to California Government Code sections 84305 through 84511, and the regulations of the California Fair Political Practices Commission, as amended, including but not limited to Regulations 18440 and 18450.11, are adopted by reference and incorporated into the San Diego Municipal Election Campaign Control Ordinance as if fully set forth herein.

.....

- (c) When a *candidate* or *committee* uses volunteers to make telephone communications, such volunteers shall disclose the name of the *candidate* or *committee* during the communication in the same manner required of paid callers under state law, except that this disclosure may follow the words “on behalf of” instead of “paid for by.”

....

### **California Government Code Section 84310 – Identification Requirements for Telephone Calls**

- (a) A candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization shall not expend campaign funds, directly or indirectly, to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means and that advocate support of, or opposition to, a candidate, ballot measure, or both, unless during the course of each call the name of the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that authorized or paid for the call is disclosed to the recipient of the call. Unless the organization that authorized the call and in whose name it is placed has filing obligations under this title, and the name announced in the call either is the full name by which the organization or individual is identified in any statement or report required to be filed under this title or is the name by which the organization or individual is commonly known, the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that paid for the call shall be disclosed. This section does not apply to telephone calls made by the candidate, the campaign manager, or individuals who are volunteers.

### **California Code of Regulations Section 18840 – Telephone Advocacy**

For the purposes of Section 84310:

....

- (b) A required disclosure statement must identify at least one candidate, committee of the type listed in subdivision (a), or slate mailer organization “paying for” the call or at least one candidate or committee of the type listed in subdivision (a) “authorizing” the call and must state that the call is “paid for” for “authorized” by the identified candidate, committee, or slate mailer organization.

....

## VI. Material Findings

### Section 27.2970 - Telephone Communication Disclosures

ECCO incorporates by reference the campaign advertising rules in state law. State law requires committees that pay for telephone communications of 500 or more which support or oppose a candidate, measure, or both, to include a “paid for by” disclosure during the call. Similarly, committees using volunteers to engage in telephone communications are required to include the words “on behalf of” immediately followed by the name of the committee.

The Auditor found that the Committee paid for a phone bank vendor to make live telephone calls in support of the candidate. According to information provided by Committee representatives, the paid phone bank callers made 2,272 live telephone calls to support the election of the candidate. In addition, the paid callers used one script for all of the telephone calls.

The Committee’s script indicates that the callers identified themselves as volunteers during the introduction; the script used the “on behalf of” disclosure, followed by the committee’s name. The Committee telephone phone bank script did not include a “paid for by” disclosure in the introduction or anywhere else within the body of the script. Accordingly, the Auditor concluded that the Committee did not comply with the telephone communication “paid for by” disclosure requirements.

At the post-audit conference held on April 25, 2023, the Committee representatives asserted that its disclosure omission was unintentional and that its overall actions evidence its intent to substantially comply with applicable regulations. In addition, the Committee representative noted that the campaign consultant who managed the phone banks assumed full responsibility for the disclaimer omission.

## 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. **However, the audit revealed the following material finding: the committee failed to include the “paid for by” disclosure in telephone communications, in violation of San Diego Municipal Code section 27.2970.**

[REDACTED]

---

Rosalba Gomez  
Audit Program Manager

---

Date

[REDACTED]

---

Sharon Spivak  
Executive Director

---

Date