FINAL AUDIT REPORT

March 9, 2006

SAN DIEGO ETHICS COMMISSION AUDIT REPORT:
2004 Lobbyist Quarterly Disclosure Reports

I. Introduction

This Audit Report contains information pertaining to the audit of Lobbyist Quarterly Disclosure Reports for the period January 1 to December 31, 2004. The audit was conducted to determine whether registered lobbyists properly reported activity expenses during the reporting period.

The audit revealed that four gifts to City Officials were not reported by the registered lobbyists who were the source of the gifts, and one gift to a City Official was undervalued by the registered lobbyist who was the source of the gift, all in violation of San Diego Municipal Code section 27.4017.

II. Audit Authority

The Ethics Commission is mandated by San Diego Municipal Code section 26.0414 to review lobbyist and conflict of interest disclosure forms, and to propose procedures to conduct audits of lobbyist activity.

III. Audit Scope and Procedures

This audit was performed in accordance with generally accepted auditing standards and the Ethics Commission Audit Manual. The audit involved a thorough review of Lobbyist Quarterly Disclosure Reports and the Statements of Economic Interest (SEIs) for high level and local code filers for calendar year 2004.

IV. Summary of Applicable Law

San Diego Municipal Code section 27.4017(e)-(k) - Contents of Lobbyist's Quarterly Disclosure Reports

A lobbyist quarterly disclosure report shall contain the following information:

(e) an itemization, which includes the date, amount and description of any Activity Expense made by the Lobbyist during the reporting period of $10 or more on any one occasion; or Activity Expenses made by the Lobbyist during the reporting period aggregating $50 or more during the quarter, to benefit any single City Official on behalf of any one Client;

(f) the name and title of the City Official benefiting from each itemized Activity Expense;

(g) the name and address of the payee of each itemized Activity Expense;

(h) the name of the vendor if different from that of the payee of each itemized Activity Expense;

(i) the name of the Client, if any, on whose behalf each itemized Activity Expense was made;

(j) the total amount of all Activity Expenses, whether itemized or not, made by the Lobbyist during the reporting period; and

(k) any other information required by the City Clerk consistent with the purposes and provisions of this division.

Title 2, Division 6, California Code of Regulations, section 18946.4(a) – Reporting and Valuation of Gifts: Tickets to Nonprofit and Political Fundraisers

A gift of a ticket or other admission privileges to a specific fundraising event shall be valued as set forth below.

(a) Nonprofit Fundraiser. Except as provided in subdivision (b), a ticket or other admission privilege to a fundraising event for a nonprofit, tax-exempt organization that is not a committee as defined in Government Code section 82013(a) shall be valued as follows:

(1) Where the event is a fundraising event for a nonprofit organization, and the ticket clearly states that a portion of the ticket price is a donation to the organization, then the value of the gift is the face value of the ticket reduced by the amount of the donation.

(2) If there is no ticket indicating a face value or the ticket or other admission privilege has no stated price or no stated donation portion, the value of the gift is the pro rata share of the cost of any food, and beverages, plus any other specific item presented to the attendee at the event.

V. Material Findings

A. Violations of San Diego Municipal Code section 27.4017 - Contents of Lobbyist's Quarterly Disclosure Reports

1. Four gifts to City officials were not reported by the registered lobbyists who were the source of the gifts:

City Official Name	As shown on Statement of Economic Interest (SEI)			
	Source of Gift	Gift Description	Value	Date
Michelle Strauss	Mitch & Kelly Berner	Casual Place Setting	$53.90	05/30/04
Brittany Rankin	Ben & Nikki Clay	Set of China	$50.00	06/26/04
John Kern	Donna Jones	Alonzo Awards Dinner	$55.00	10/14/04
Scott Peters	SDG&E (Laura McDonald)	Box of Candy	$15.00	12/15/04

The first two gifts were wedding presents given to City Officials from registered lobbyists and their spouses. The first gift, to Michelle Strauss, was from registered lobbyist Mitchell Berner and his wife Kelly. The second gift, to Brittany Rankin, was from registered lobbyist Nicole Clay and her husband Ben. In both cases, the registered lobbyist had forgotten about the wedding present, explaining that the reporting omission was an unintentional oversight. Upon notification of the reporting omission, both lobbyists amended his/her Lobbyist Disclosure Report for the appropriate reporting period, properly disclosing the gift.

The gift to John Kern was a ticket to the annual Alonzo Awards Dinner from registered lobbyist Donna Jones. Ms. Jones explained that, at the time, she was unaware that Mr. Kern was considered her guest, since she and a colleague co-hosted the table where Mr. Kern sat. Upon further reflection, Ms. Jones recognized that Mr. Kern was her guest and she immediately amended her Lobbyist Disclosure Report for the reporting period, properly disclosing the gift.

The gift to Scott Peters was a box of See's Candies from registered lobbyist Laura McDonald. Ms. McDonald explained that she had forgotten about the box of candy. Upon notification of the reporting omission, Ms. McDonald immediately amended her Lobbyist Disclosure Report for the reporting period, properly disclosing the gift.

2. One gift to a City Official was undervalued by the registered lobbyist who was the source of the gift. Lobbyist Laura McDonald reported an activity expense of $50 to Councilmember Scott Peters for his attendance at the 39th annual San Diego Regional Economic Development Corporation (EDC) dinner on June 2, 2004. The EDC is a 501(c)(6) nonprofit and the dinner was a fundraiser. Councilmember Peters reported the gift at a value of $150, which was the face value of the ticket. There was no stated donation portion on the ticket.

Ms. McDonald explained that, at the time of the event, she was told by the EDC that the value of the gift was $50. This was confirmed by the Events Coordinator of the EDC in a recent telephone conversation, during which she explained that she thought the value of the gift was the cost of food only, which was $50. She further explained that there were many other costs, such as appetizers and beverages, which she estimated brought the per person cost closer to $150. She stated that the funds raised in excess of costs were from corporate sponsors, rather than per ticket

sales. Therefore, since the face value of the ticket was $150, and there was no stated donation portion on the ticket, the gift value is $150.

Once made aware of the correct gift value, Ms. McDonald immediately amended her Lobbyist Disclosure Report for the reporting period to reflect the correct value of $150.

VI. Conclusion

The review of Lobbyist Quarterly Disclosure Reports and the Statements of Economic Interest (SEIs) for calendar year 2004 revealed that four gifts to City Officials were not reported by the registered lobbyists who were the source of the gifts, and one gift to a City Official was undervalued by the registered lobbyist who was the source of the gift, all in violation of San Diego Municipal Code section 27.4017.

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DeeDee Alari, CPA Date
Financial Investigator

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Lauri Davis Date
Senior Investigator