

BEFORE THE
CITY OF SAN DIEGO
ETHICS COMMISSION

In the Matter of:

ADVANTAGE TOWING COMPANY,
INC., and AYMAN AREKAT,

Respondents.

Case No. 2013-15

OAH No. 2015090579

PROPOSED ADMINISTRATIVE ENFORCEMENT ORDER

Mary Agnes Matyszewski, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter in San Diego, California, on February 22, 23, and 24, 2016.

Gary Winuk, Special Counsel and Petitioner, represented the City of San Diego Ethics Commission.

Stephen F. Lopez, Attorney at Law, represented respondents, Advantage Towing Company, Inc., and Ayman Arekat. Mr. Arekat, the owner/president of Advantage Towing, was present throughout the hearing.¹

The matter was submitted on February 24, 2016.

ISSUE

Did respondents violate campaign contribution limitations and disclosure requirements set forth in the San Diego Municipal Code?

SUMMARY OF FINDINGS

Respondents violated three sections of the municipal code pertaining to campaign contribution limitations and disclosures. The evidence overwhelmingly established that ten of respondents' employees or their spouses made campaign contributions to three mayoral candidates on the same days that respondents issued checks to the employees for the exact

¹ They will be collectively referred to as respondents in this order.

same amount as their campaign contributions. Although respondents and the employees testified about respondents' policy of giving loans to employees, and numerous checks to employees in support of that position were introduced, that argument was neither credible nor persuasive. The documentation, witness interviews, recorded statements, depositions, and witness testimony, as well as the multiple credibility issues, including acknowledgment by respondents and many of the witnesses that they had lied to petitioner, the investigator, and the commission, supported petitioner's contention that the fifteen checks at issue here were reimbursements for campaign contributions and that respondents were the actual donors to the three campaigns.

Based upon the evidence presented, the maximum penalty for the municipal code violations is the appropriate penalty and that will be ordered.

FACTUAL FINDINGS

Jurisdiction

1. The City of San Diego is governed by a municipal code. Article 7 contains the laws regarding elections, campaign finance and lobbying. The municipal code sets forth disclosure requirements and limitations for campaign contributions. The municipal code prohibits contributions from businesses, contributions in the name of another, and imposes a \$500 limit per contribution per election. The purpose of these provisions is to prevent corruption and the appearance of corruption that would result if candidates were permitted to accept large campaign contributions and to publicly disclose the source of the contribution.

2. On December 16, 2015, petitioner filed the Final Administrative Complaint in his official capacity. The complaint charged respondents with 32 counts of committing campaign finance violations during the 2011-2012 city mayor campaigns by using employees to make campaign contributions to three mayoral campaigns, when, in fact, respondents were the source of the campaign contributions. The complaint sought a monetary penalty and other relief.

Respondents appealed the penalty, requested an administrative hearing, and this proceeding ensued.

Respondents' Business

3. Advantage Towing Company, Inc., is a California corporation owned and operated by Ayman Arekat.² Documents filed with the California Secretary of State identified Mr. Arekat as the sole officer of the corporation whose type of business was listed

² Advantage Towing Company, Inc. and Ayman Arekat will be referred to collectively in this order as "respondents."

as “towing company.” No other officers were identified. City business records identified Mr. Arekat as the president and sole owner of Advantage Towing.

Mr. Arekat testified that the majority of his business comes from AAA, with a very small percentage coming from his city contract. Petitioner’s summary of the city towing contracts demonstrated that in fiscal year 2012, Mr. Arekat and nine other towing companies shared a \$199,000 city contract; in fiscal year 2013 and 2014 Advantage Towing had an \$85,500 contract; and in fiscal year 2015 Advantage Towing had a \$48,000 contract. Petitioner provided city purchase orders which his investigator testified supported the summary. However, the numbers did not correlate. The city purchase orders indicated that in 2011 the purchase order total was \$65,585.11; in 2012 and 2013 the city purchase order totals were \$85,500; in 2014 the city purchase order totals were \$48,000 and \$72,000. Petitioner did not explain these differences. Mr. Arekat testified that the contracts authorized him to bill the city up to that amount for towing services, but that he did not reach that amount in any of those years. Mr. Arekat also testified that these amounts were a very small percentage of his annual gross income received from his other towing contracts.

Mr. Arekat testified that a large towing company, RoadOne Towing, holds a several hundred thousand dollar towing and impound contract with the city; the other towing companies have the less lucrative towing only contracts. Mr. Arekat and those other towing companies are required to tow all vehicles to the RoadOne impound yard. Mr. Arekat testified that he complained about the city’s refusal to allow Advantage Towing or other tow companies to bid on the impound contract and got a run around at City Hall. Shortly after he made his complaint, the commission began its investigation. Petitioner did not offer any evidence to refute Mr. Arekat’s testimony about his city contracts or the timing of his complaint and this investigation.

The Commission’s Investigation

4. Lauri Davis, the investigator for the commission, testified about her investigation. She produced documents corroborating her testimony.³ The documents included campaign contribution records, payroll records, bank records, e-mails regarding issues Advantage Towing was having with the city, billing records, and witness interviews. Ms. Davis had carefully analyzed and prepared the documents. Her testimony and the documents demonstrated the extensive investigation she performed. Her investigation revealed that ten individuals who were either respondents’ employees or spouses of respondents’ employees gave campaign contributions in 2011 or 2012 to three different mayoral candidates: Nathan Fletcher, Bonnie Dumanis, and Carl DeMaio. The ten individuals received checks from respondents for the same amount as their campaign contribution on the same days they made the contributions.

³ The administrative law judge issued a protective order sealing many of the records introduced in this hearing to protect personal privacy because they contained confidential information, including address information, occupation information, bank records, and other identifying information. The parties did not object to the order.

As part of her investigation, Ms. Davis analyzed the documents pertaining to each donor and the campaign contribution. She concluded that many of the employees lacked sufficient funds to make the campaign contributions on the dates they were made, and that the checks were not loans because she could find no records of repayment. Ms. Davis concluded that respondents used these ten individuals to make campaign contributions on respondents' behalf thereby violating the municipal code. Ms. Davis also interviewed witnesses, including some of the employees and their spouses, recorded the interviews with their permission, and had those interviews transcribed. Ms. Davis testified at the hearing consistent with her investigation. Although Ms. Davis's summaries were more conclusory than how witnesses had actually testified, the evidence did not establish that anything in the summaries was inaccurate or false.

Ms. Davis testified in this administrative hearing. She described her employment history. She began her career as a San Diego police officer, became an investigator for the city attorney, and since 2004 has been the sole investigator for the commission. Ms. Davis authenticated the documents she obtained as part of her investigation, and explained her conclusions derived from both the documents and her interviews.

Ms. Davis acknowledged that at the time the employees made their contributions, Mr. and Mrs. Arekat had not reached their maximum campaign contribution limits. She acknowledged that she found no evidence that respondents identified any of the employees who made donations as "directors," the occupations that were listed in the campaign contribution disclosure documents.⁴ Ms. Davis also admitted that she did not obtain records from any other banks other than those on which the campaign contributions were drawn and had not obtained any other employment records other than those from Advantage Towing. Ms. Davis admitted that one of the bases for her conclusion that the Advantage Towing checks were reimbursements for campaign contributions and not loans was because she found no evidence that those loans were repaid, but conceded she was looking for payroll deductions; she had not analyzed whether or not cash was exchanged. She also acknowledged that her analysis did not factor in "floating checks," or different dates between the time the check was written and ultimately cashed.

Ms. Davis denied respondents' contention that she sent police to investigate Manal Asad, an employee spouse/campaign contributor. Ms. Davis explained that the Executive Director of the commission received a call from Ms. Asad's brother who reported that his sister was being harassed by Mr. Arekat because of her statements to the commission. The Executive Director reported this to the police. Ms. Davis never read the police officer's report but was aware that Ms. Asad told police that she had never worked at Advantage Towing. Ms. Davis denied that anyone from the commission ever sent police to investigate Shaheen Shaheen, another employee/campaign contributor for being a member of ISIS or for making threats.

⁴ The evidence did not establish who provided that information to the campaigns.

5. Evaluation: Despite respondents' assertions that this investigation was conducted by an overzealous investigator, who intimidated the witnesses' into making false claims, those arguments were not persuasive. Ms. Davis presented as a calm, straightforward, composed investigator. She conceded various points on cross-examination, did not over-advocate her position, and presented as an investigator who had conducted a thorough, honest, and fair investigation. She spent a significant amount of time obtaining and analyzing the records and her conclusions were supported by the documents she obtained. Moreover, because she had recorded and transcribed the witness interviews she conducted, even if one were to assume that she was overzealous or that her file notes were inaccurate, the actual recordings and transcriptions were available and produced. As noted below, those recordings and transcripts, not the summaries, were used to support the findings reached in this order. As demonstrated on those recordings and transcripts, Ms. Davis's questions were open-ended and demonstrated her attempts to follow up on the information obtained, as well as understand or clarify the witnesses' statements. Furthermore, many of the witnesses' responses were unsolicited.

The questions Ms. Davis asked, and the documents she prepared, were hardly the work of an aggressive, overbearing investigator. Additionally, Ms. Davis had absolutely no reason to falsify her documentation. On the other hand, respondents and their witnesses had every reason to testify falsely, and admitted during this administrative hearing that they had previously testified falsely while under oath when they gave their deposition testimony and/or testified at the probable cause hearing, and/or when they were interviewed by Ms. Davis. On balance, the evidence put forth by petitioner was far more credible and reliable than that put forth by respondents.

Investigation and Analysis of Evidence Regarding Ayman Arekat

6. A California Form 460, one of the documents campaigns must file disclosing campaign contributions, indicated that in the Fletcher for Mayor 2012 campaign Mr. Arekat and his wife, Elva Arekat, each donated \$500 for the primary election. The campaign received those contributions on June 25, 2011. Ms. Davis testified that the campaigns are required to obtain and disclose information regarding each donor to inform the public about who is making donations to the candidate. The accompanying form regarding Mr. Arekat's and his wife's contributions indicated that one check for \$1,000, drawn on their Union Bank joint account, was signed by both Mr. Arekat and his wife and dated June 15, 2011. The disclosure form identified Mr. Arekat as the President of Advantage Towing and his wife as a Homemaker.

7. A California Form 460 from the Carl DeMaio for Mayor 2012 campaign documented that on July 30, 2012, the campaign received a \$500 primary election campaign contribution and a \$500 general election campaign contribution from Mr. Arekat. He was identified as an Owner of Advantage Towing. The disclosure form also documented that on July 30, 2012, the campaign received a \$500 primary election campaign contribution and a \$500 general election campaign contribution from Ms. Arekat. She was identified as an Owner of Advantage Towing. The corresponding checks made out to the campaign

indicated that on July 30, 2012, Mr. Arekat made out a check for \$1,000 to the campaign on his Union Bank joint account he shared with his wife. A second check dated July 30, 2012, contained the signature "Elva Arekat," made out for \$1,000 to the campaign. Of note, her signature on this check was different from her signature on her check for the Fletcher campaign. Both checks were drawn from the couple's joint account at Union Bank.

8. A California Form 460 documented that The Lincoln Club of San Diego County, a political committee, opposed Bob Filner's campaign for mayor. On July 3, 2012, Mr. Arekat donated \$10,000 to this committee; the contribution was drawn on Advantage Towing's Union Bank account. As of November 2, 2012, The Lincoln Club had spent \$863,000 opposing Mr. Filner's campaign.

9. A California Form 460 documented that California for Small Business, a political committee, opposed Mr. Filner's campaign for mayor. On October 5, 2012, Mr. Arekat donated \$8,000 to this committee; the contribution was drawn on Advantage Towing's Union Bank account. As of June 5, 2012, California for Small Business had spent \$94,118 opposing Mr. Filner's campaign.

10. A California Form 460 documented that the Republican Party of San Diego County, a political committee, supported Mr. DeMaio's campaign for mayor. On October 5, 2012, Mr. Arekat donated \$3,000 to this committee; the contribution was drawn on Advantage Towing's Union Bank account. As of December 3, 2012, the Republican Party of San Diego County had spent \$1,236,898.44 supporting Mr. DeMaio's campaign.

11. When petitioner served its subpoenas, Mr. Arekat's brother, Yazid Iriqat, contacted Ms. Davis who informed him that records were being sought as part of an investigation and asked him to have Mr. Arekat contact her.⁵ On June 16, 2014, Mr. Arekat called Ms. Davis who documented the call in a file note. She advised him that she was investigating allegations of laundering campaign contributions. Mr. Arekat replied that he does not give his employees money to make contributions. He acknowledged giving his "employees loans all the time because life is hard," but denied they were loans to make campaign contributions. Mr. Arekat stated that his employees pay him back when they get paid and it would be reflected on their paycheck. Mr. Arekat admitted making campaign contributions to city candidates and asked Ms. Davis why she would think he would give money to his employees when he can make campaign contributions himself. Ms. Davis answered that it was because there are limits on campaign contributions.

12. On December 16, 2015, petitioner deposed Mr. Arekat⁶ who was represented by Mr. Lopez, the attorney representing him in this administrative hearing. Mr. Arekat

⁵ The rest of the conversation between Ms. Davis and Mr. Iriqat is summarized below in the section pertaining to the investigation of Mr. Iriqat.

⁶ Although the entire deposition transcript was offered and received in evidence, only a few pages were referenced at hearing. As with every other deposition and interview

testified he records his employees' loans on a ledger document that he retains until the loans are done, then he throws the ledger away. (Mr. Arekat deposition transcript, page 28, lines 8-23.) Mr. Arekat arranged for repayment of the loans by deducting them from the employees' paychecks. (Mr. Arekat deposition transcript, page 28, line 24 through page 29, line 5.) Mr. Arekat testified that Manal Asad currently does not work for him; he believed she left his employment last year, but he was not sure and would need to check his office records. Ms. Asad worked for him for two to three years, working as a dispatcher and calling customers from the auxiliary location. (Mr. Arekat deposition transcript, page 33, lines 1-23; page 39, line 7 through page 40, line 11.) However, on the Errata Sheet, where Mr. Arekat made corrections to his deposition testimony, he testified that Ms. Asad currently does still work for him, and works from home.

In other portions of his deposition that were not referenced at hearing, Mr. Arekat testified that he, as president, was the only director of the company. His brother, Yazid Iriqat, was the manager. (Mr. Arekat deposition transcript pages 7-9.) The employees receive hourly compensation and are paid biweekly and receive bonuses. (Mr. Arekat deposition transcript, page 9.) Employees worked both part-time and full-time hours. (Mr. Arekat deposition transcript, pages 16-17.) If employees damaged customers' cars they were required to pay for that damage and Mr. Arekat would deduct that damage from their paychecks. (Mr. Arekat deposition transcript, pages 22-24.) Mr. Arekat made loans to employees that he kept track of on ledgers and would deduct the loans from their paychecks. (Mr. Arekat deposition transcript, pages 26-29.) Mr. Arekat would determine how much of the loan to deduct from the employees' paychecks depending on what the employees made. (Mr. Arekat deposition transcript, pages 30-31.) Mr. Arekat also forgave loans. (Mr. Arekat deposition transcript, page 31.)

Mr. Shaheen is currently a dispatcher at the company. (Mr. Arekat deposition transcript, page 38.) Mr. Shaheen began working at the company when Ms. Asad, his wife, left, approximately one to two years ago. Mr. Arekat testified that when the employee paychecks issued to Ms. Asad stopped and the ones issued to Mr. Shaheen began, was when Mr. Shaheen began working at the company. (Mr. Arekat deposition transcript, page 41, lines 1-11.)

The company has two locations. (Mr. Arekat deposition transcript, pages 39-40.) Mr. Arekat initially testified that only he is authorized to "give checks" (Mr. Arekat deposition transcript, page 44, lines 5-21), but on the Errata Sheet Mr. Arekat corrected his testimony to state that he and his brother were authorized to "give checks." Mr. Arekat chose the amount of his campaign contributions because "he felt like it." (Mr. Arekat deposition transcript, page 44-45.) Mr. Arekat was invited to campaign fundraisers. (Mr. Arekat deposition transcript, pages 46-47.)⁷

transcript received in evidence, the entire transcript was reviewed, even if only part of it, or none of it, was referenced at this administrative hearing.

13. At the probable cause hearing held on August 19, 2015, Mr. Arekat was again represented by Mr. Lopez. The transcript of the probable cause hearing was introduced at this administrative hearing. During his opening remarks, Mr. Lopez asserted that petitioner's case was based on supposition and stated:

The thing that they're missing here is that neither Ayman Arekat or [sic] Advantage Towing itself had anything to do with this. Apparently, according to these employees, a gentleman named Shaheen Shaheen, who was not an employee, officer, director of Advantage Towing, told these people they should make these donations. They're the ones that did that. Advantage Towing and Ayman Arekat had nothing to do with that. (Probable Cause Transcript, page 17, lines 15-22 .)

At the probable cause hearing, respondent submitted the declarations of Mr. Arekat, Mohammed Mohammed, Mr. Shaheen, Ms. Arekat, Mr. Iriqat, and Ms. Asad. The commission received those declarations as exhibits. (Probable Cause Transcript, page 20, lines 2-13 .)

Mr. Arekat testified under penalty of perjury at the probable cause hearing; the same oath he took at his deposition and at this administrative hearing. (Probable Cause Transcript, page 20, lines 14-24.) Mr. Arekat testified that Mr. Shaheen was not employed by Advantage Towing in 2011, 2012 or 2013, and did not have authority to speak on behalf of the company. (Probable Cause Transcript, page 47, line 15 through page 48, line 2; page 65, lines 14-20.) However, when petitioner showed Mr. Arekat numerous e-mails from Mr. Shaheen at Advantage Towing communicating with a city representative in 2012 about respondents' business, Mr. Arekat admitted that Mr. Shaheen may have worked for Advantage Towing "part time" but was "never an employee." (Probable Cause Transcript, page 66, line 3 through page 67, line 3.)

Respondents submitted documents representing the loans given to employees. (Probable Cause Transcript, page 24, lines 12-24.) Mr. Arekat testified that he did not direct employees how to use the funds he loaned to them. (Probable Cause Transcript, page 32, lines 3-6.) Mr. Arekat was asked questions about specific loans to employees, and denied that he directed any of them how to use those loans. Mr. Arekat did not keep any of the records he had for these loans explaining that "most of the time, once they are done with the loans, I threw away the paper." (Probable Cause Transcript, page 69, lines 20-25.) The loans were made with anticipation of repayment and were repaid by taking the money from the employees' paychecks. (Probable Cause Transcript, page 70, line 22 through page 71, line 7.)

⁷ Petitioner's argument that these events provided respondents with campaign contribution limitation information was speculative.

None of the loans were reimbursement for campaign contributions made by the employees and Mr. Arekat never told any employee that they had to make a campaign contribution. (Probable Cause Transcript, page 42, lines 18-25; page 48, line 20 through page 54, line 10; page 55, line 24 through page 61, line 5.) Mr. Arekat did not prepare or assist employees in preparing the campaign disclosure forms. (Probable Cause Transcript page 54, line 11 through page 5, line 23.)

Mr. DeMaio came to the tow yard to solicit donations. (Probable Cause Transcript, page 43, lines 9-25.) Mr. Arekat was not sure if Mr. Fletcher or Ms. Dumanis came to solicit donations. Mr. Arekat did not speak with any employees about making contributions or tell them that Advantage Towing would reimburse them for contributions. (Probable Cause Transcript, page 44, lines 17-23; page 45, line 2 through page 47, line 14.) Mr. Arekat testified that his employees Ziyad Raheem and Seror Mikha, who both told Ms. Davis that Mr. Arekat gave them their checks as reimbursement for their campaign contributions, were lying. (Probable Cause Transcript, page 74, lines 1-8.)

At the time of the campaign solicitation, the company had a contract with the city that did not make that much money as it was not a “big contract” nor was it a substantial part of the company’s income. The company’s overall income in 2011 was about \$2 million. (Probable Cause Transcript, page 44, lines 1-16.)

14. Mr. Arekat testified at this administrative hearing. He has a marketing degree from the University of Minnesota. He testified about his company, his role in it, his relationship with his brother, and his contracts with the city. Almost 100 percent of his business comes from AAA members. Mr. Arekat described the city contract as being an extremely small percentage of his business. His company earns a monthly gross income of \$300,000; the city work is approximately \$5,000 to \$6,000 per month. He testified about his complaint to the city and police department about the contract process and the lucrative impound contract awarded to RoadOne, and how he “and other Arab-owned towing companies” were shut out of the bargaining process. Mr. Arekat never dealt with any politicians regarding his city contract or his complaints.

Mr. Arekat employs over 35 individuals and gives bonuses and loans to his employees. He and his brother are authorized to write checks that Mr. Arekat pre-signs and are maintained in the office. He now instructs employees to write the word “loan” on the loan checks because of this investigation. Mr. Arekat does not charge interest; he decides on the amount of the loan, he allows repayments over time and he has forgiven loans. Mr. Arekat keeps track of employee loans on a piece of paper in his desk drawer. The paper does not contain dates. When the loan is repaid, Mr. Arekat discards the paper. He does not have any papers for the loans he made in 2011, 2012 or 2013. Mr. Arekat has never had an employee complain that he did not properly credit their loan. Ninety percent of the time the employee repays the loan with cash; sometimes Mr. Arekat deducts loan repayments from the employee’s paycheck. Mr. Arekat testified that there is no entry made on the employee’s pay stub for repayment, he will just let the employee know about it, he does not report the deduction to payroll. It is also common for employees to work overtime to pay off their

loans. Employees must reimburse the company for any damage they cause.⁸ Mr. Arekat considers that a “loan” that he would record on his sheet of paper until the employee has paid off the damage.

Mr. Arekat testified that the company does not get too much cash; and if it does, he keeps it most of the time to pay for expenses. Mr. Arekat testified that is very unusual for him to deposit cash in the company bank account. He explained that the drivers pay out-of-pocket for the AAA members’ gas during roadside service that the company reimburses. Sometimes the drivers have to purchase parts that the company also reimburses.

Mr. Arekat testified that he has always been politically active; if he likes what he hears he makes a donation. He was politically active in Kuwait, as well as in Minnesota, and has continued to be so in San Diego. Mr. Arekat was invited five years ago to attend a campaign event; although he did not attend that event, he still made a donation. He did attend one event for Mr. DeMaio and made a contribution, but cannot recall the amount. When shown the various checks introduced in evidence and asked questions about them, he testified that they were loans, but he could not recall details as it has been five years since he wrote the checks. None of the checks were reimbursements for campaign contributions.

Mr. Arekat never told employees to give campaign contributions. He never told employees they would be reimbursed for campaign contributions. He never reimbursed employees for campaign contributions. Mr. Arekat was not aware of any campaign contribution limits; he only learned of those limits because of this investigation. Before that time, “I did not even know there were limits.” Mr. Arekat did not know why he wrote two separate checks for his DeMaio campaign contributions, each one for \$1,000. He wrote both checks and asked his wife to sign her name on them.

Mr. Arekat testified that his father and Mr. Shaheen’s father knew each other in Kuwait. Mr. Shaheen has worked for Mr. Arekat for “quite some time,” but did not always work as an employee because of his immigration status. In the last two years Mr. Shaheen’s status has cleared and Mr. Shaheen is now identified as an employee at the company. Before Mr. Shaheen’s immigration status was cleared, Mr. Shaheen used his wife’s name at work. Mr. Shaheen’s wife, Ms. Asad, was listed on respondents’ payroll as an employee, even though Mr. Shaheen was the employee. Ms. Asad received paychecks and loans; if Mr. Shaheen asked for a loan, Mr. Arekat put Ms. Asad’s name on the check. Mr. Shaheen now has a green card, he is a legal immigrant. Mr. Shaheen became an employee on respondents’ books when he obtained his legal status. Mr. Arekat admitted he lied at his deposition when he testified that Ms. Asad was an employee at Advantage Towing, because he was concerned about Mr. Shaheen’s immigration status. Mr. Arekat testified that is no longer concerned about that status so is now telling the truth.

⁸ It was unclear if the damage was damage to respondents’ towing vehicles or to vehicles respondents’ employees towed. There were checks issued to various individuals that suggested respondents paid owners for damage caused during the tow, but there was also testimony suggesting employees damaged respondents’ vehicles.

Mr. Arekat testified that Ms. Asad began “officially” working for Mr. Arekat in October 2015. Mr. Arekat was asked about the changes to his deposition testimony he made on the Errata sheet. He acknowledged that he made several changes regarding Ms. Asad’s employment. He explained that he had to change his testimony because, “I honestly forgot. I do not keep up with the employees.”

Mr. Arekat testified that a few days after his deposition, a police officer, Don Vile, came to his office and accused him of being an ISIS sympathizer. Mr. Arekat testified, “My eyes popped,” and he told the officer, ““This is a little uncalled for, what is going on here?”” The officer advised, “We were told” that you are a sympathizer. Mr. Arekat told the officer that he considered the visit to be harassment by the city.

15. Evaluation: Although Mr. Arekat testified in a direct, straightforward, and no-nonsense manner, his ready admissions to having lied previously while under oath at his deposition and the at the probable cause hearing regarding Mr. Shaheen’s employment, called his credibility into question. Mr. Arekat was very courteous and respectful during this administrative proceeding, but the manner in which he testified about his previous lies was disconcerting. He seemed to have absolutely no qualms about having lied to the petitioner when deposed and to the commission at the probable cause hearing. Moreover, he did not demonstrate an appreciation for the fact that by creating false payroll records when he listed Ms. Asad and not Mr. Shaheen as his employee, because of Mr. Shaheen’s immigration status, he was possibly engaging in employment fraud and possibly immigration fraud. That admission demonstrated that Mr. Arekat was an individual who put business first and did not seem to care about following the law, making petitioner’s claims against him all the more plausible. Most persuasively, the fact that the campaign contributions and the “loans” to the employees occurred on the same days the contributions were written, and were for the same amounts, was just too far-fetched to be a coincidence. It was inconceivable that the checks that Mr. Arekat claimed were “loans,” were anything other than reimbursements to the employees for their campaign contributions.

Investigation and Analysis of Evidence Regarding Employee Yazid Iriqat

16. A California Form 460 from the Fletcher for Mayor 2012 campaign documented that on December 29, 2011, the campaign received a \$500 primary election campaign contribution from Yazid Iriqat, Mr. Arekat’s brother. He was identified as a Director of Advantage Towing. The corresponding check made out to the campaign indicated that on December 19, 2011, Mr. Iriqat wrote a check for \$500 to the campaign drawn on his Washington Mutual account.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3737, drawn on the company’s Union Bank account, signed by Mr. Arekat, made out to Mr. Iriqat on December 20, 2011, for \$500.

17. A California Form 460 from the Bonnie Dumanis for Mayor 2012 campaign documented that on March 17, 2012, the campaign received a \$500 primary election campaign contribution from Mr. Iriqat. He was identified as a Driver at Advantage Towing. The corresponding check made out to the campaign indicated that on March 16, 2012, Mr. Iriqat wrote a check for \$500 to the campaign drawn on his Washington Mutual account.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3859, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Mr. Iriqat on March 16, 2012, for \$800.

18. On June 16, 2014, Mr. Iriqat called Ms. Davis when he received the petitioner's subpoenas. Ms. Davis documented the call in her file notes. Ms. Davis informed Mr. Iriqat that she was conducting an investigation about allegations of laundering campaign contributions. Mr. Iriqat told her that he received a "loan" from the company to make the campaign contributions. Mr. Iriqat "kept stating that he doesn't see what the problem is because people asked them all the time to help out." He alluded to requests from the fire department. He "noted this was only \$500 or \$1,000 and questioned why [the commission] aren't going after the people who do millions of dollars all the time."

19. On January 28, 2016, petitioner deposed Mr. Iriqat. He and his brother were both authorized to sign checks. (Mr. Iriqat's deposition transcript, page 8, lines 10-25.) Until two years ago when he became a dispatcher, Mr. Shaheen worked occasionally at the company helping out. (Mr. Iriqat's deposition transcript, page 10, lines 4-15.) The company gave loans to employees who needed money. (Mr. Iriqat's deposition transcript, page 13, lines 2-24.) He took loans from the company. (Mr. Iriqat's deposition transcript, page 14, lines 3-13.) Only he and his brother had authority to make the loans. (Mr. Iriqat's deposition transcript, page 15, lines 12-22.) They kept track of the loans on a piece of paper. They would keep the piece of paper until it was full, then they would renew it again and transfer the information every three to six months to another sheet of paper and trash the old piece of paper. (Mr. Iriqat's deposition transcript, page 15, line 23 through page 16, line 25.) Employees would repay the loans by cashing their checks and giving them cash or sometimes it would be deducted from their paychecks. (Mr. Iriqat's deposition transcript, page 22, lines 3-21, page 56, lines 1-4.)

Mr. Iriqat made the campaign contributions because he heard about Mr. Fletcher from his brother and Mr. DeMaio came to the office. (Mr. Iriqat's deposition transcript, pages 23-25.) The employees asked his brother and Mr. Iriqat about making donations and they told them that they could go ahead if they wanted to make one. They told employees they could make whatever donation amount they wanted to make. (Mr. Iriqat's deposition transcript, page 30, lines 1-19.) He and his brother did not force employees to donate, it was their "right to donate or not." (Mr. Iriqat's deposition transcript, page 56, line 24 through page 57, line 3.) He and his brother never spoke to employees about making contributions and never told them they would reimburse them for their contributions. (Mr. Iriqat's deposition transcript, page 32, line 2 through page 33, line 4.) Mr. Iriqat did not receive a check to reimburse himself for making his campaign contributions. (Mr. Iriqat's deposition transcript,

pages 35-36.) Mr. Iriqat had other funds, so was not concerned that his bank account on which his contribution check was written did not have sufficient funds to cover the amount of the check. (Mr. Iriqat's deposition transcript, page 51, lines 8-20.)

20. Mr. Iriqat testified at this administrative hearing. He is currently employed as a driver at Sky Towing. Before that, beginning in 2007, he worked with his brother at Advantage Towing. Mr. Iriqat testified about how he and his brother give each other everything, explaining that "there is no difference between his money and my money; his house is my house and my house is his house." Each man was authorized to write checks on behalf of the company. Mr. Iriqat was the manager/supervisor for the company. He was never told he would be reimbursed for his campaign contributions, and he never was reimbursed. Mr. Iriqat regularly took loans from the company. He would tell Mr. Shaheen what to write on the check. Mr. Shaheen was not authorized to issue checks without Mr. Iriqat's permission.

Mr. Iriqat has other bank accounts than the one on which he wrote his campaign contribution and identified Navy Federal as one of his banks. He uses whichever bank's branch is convenient. He voluntarily wrote his checks to the campaigns. When asked about his interviews with Ms. Davis, he explained that he did not discuss the loans because that was something between him and his brother and no one has the right to ask him those questions. In addition to candidates, he has also made campaign contributions to organizations such as police and fire.

Mr. Iriqat denied knowing anything about campaign contribution limits; he wrote checks in amounts he could afford. He did not know why he selected \$500 for his campaign contributions. When asked about his Dumanis contribution, Mr. Iriqat testified that "he came to the office"⁹ and spoke to everyone; some liked him and some were turned off by him and did not support his campaign. Mr. Iriqat made a campaign contribution to the Dumanis campaign because his brother supported "him" so Mr. Iriqat did it on "blind trust." Mr. Arekat did not push Mr. Iriqat to do something he did not want to do, his brother did not ask him to make the donation. Mr. Iriqat made his donation because "he was going to be a good mayor, not like the rest before." Mr. Iriqat then corrected himself and stated that Dumanis was a woman and he was "talking about the other guy." Mr. Iriqat did not know how he came to make his check to the Fletcher campaign, but testified that they had business cards for him, he introduced himself, he came to the office, but Mr. Iriqat did not know when. When pressed, Mr. Iriqat admitted that he did not remember who came to the office to speak, but he did "recall one hundred percent" that Mr. DeMaio came to the office.

Mr. Iriqat testified that the company gives loans to employees depending upon the employee's situation. Employees cashed their checks and gave the respondents what they could afford as repayment. The loans were recorded on pieces of paper. Mr. Iriqat does not know if those cash repayments were ever deposited in the company's bank accounts. He explained that many companies with which they deal only accept cash, they do not accept

⁹ Ms. Dumanis is a female.

respondents' check, so cash is kept on hand at the office for those situations. Also, drivers carry cash with them so they can purchase needed supplies. It can be weeks, or months, before cash is deposited. When asked about policies for repayment, Mr. Iriqat testified that he "has to keep the employees relaxed" so that was why he does not push for repayment. Also, sometimes employees pay back their loans by working overtime, working hours for which they are not paid. Mr. Iriqat testified that 20 percent of the time loans are repaid by deducting money from the paycheck; 80 percent of the time loans repaid by cash. He explained that "deducting from the payroll" means not recording all the hours the employee worked when the employee worked for free to repay the loan. Mr. Iriqat explained that the paycheck may indicate the employee worked 40 hours, but the employee actually worked 60 hours, with 20 of the hours being when the employee worked for free to repay the loan.

21. Evaluation: Mr. Iriqat's initial telephone call to Ms. Davis on June 16, 2014, was the most telling. As he stated, he did not see "the problem" with what respondents had done and asked why she was not going after "the people who do millions." As his initial call revealed, Mr. Iriqat saw nothing wrong with reimbursing employees for campaign contributions. Mr. Iriqat testified in a passionate, direct manner, but it was clear from his demeanor and his testimony that he felt that petitioner had no business questioning his actions. As such, his testimony was biased and not persuasive. Further, his claims that all these checks were loans was not credible given they were for the same amounts on the same days as the campaign contributions and in light of all the other testimony and documentation introduced.

Investigation and Analysis of Evidence Regarding Employee Seror Mikha

22. A California Form 460 from the Fletcher for Mayor 2012 campaign documented that on December 28, 2011, the campaign received a \$500 primary election campaign contribution from Seror Mikha. He was identified as a Director of Advantage Towing. The corresponding check made out to the campaign indicated that on December 20, 2011, Mr. Mikha wrote a check for \$500 to the campaign from his Wells Fargo account.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3739, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Mr. Mikha on December 20, 2011, for \$500.

23. Ms. Davis interviewed Mr. Mikha three times. Each interview was recorded¹⁰ with his permission and transcribed. The first two interviews were conducted over the telephone and the third was in person with the aid of an interpreter. Contrary to respondents' assertion at hearing, Ms. Davis asked open ended questions, used words the witnesses appeared to understand because their answers correlated to the questions asked, and the

¹⁰ Recordings of the witness interviews were received in evidence (Exhibit 85) but could not be reviewed as no sound emitted when played. Neither party offered any evidence establishing that the transcription differed from the recordings and the transcriptions were used.

witnesses provided detailed information in response to Ms. Davis's general questions. Respondents correctly asserted that Ms. Davis's interview summaries were somewhat biased in that she subtly rephrased things so as to make the statements more assertive than what the witness actually said. Accordingly, for purposes of this decision, the summaries were not considered other than to evaluate respondents' claim of bias; the actual interview statements were reviewed and evaluated.

Mr. Mikha acknowledged that he was a driver for Advantage Towing. He denied that he was ever a director. When Ms. Davis asked Mr. Mikha to explain what happened with the check he was asked to write he replied,

Yeah, the check was the owner [Mr. Arekat], he ask me "I need a check for \$500" so I don't ask why. Well I asked him why but, I told you earlier my English wasn't that good and I don't know what the law and I don't know what's going on, so he says, you know, I told you I was scared to fire me from his work, I was thinking that was, oh, he might fire me, you know, so I need to work, I need job, I need money because I have kids. I have to feed my kids and I give him a check for \$500 and then two hours later he called me back because "hey, there's the 500 which he paid me check."

Mr. Mikha said the dispatcher, Mr. Shaheen, called him and told him to "come back to the yard" and "bring check with you when you come to work" because me, I was like, "Okay why?" He was like, "Just bring check." I was like, "Okay," so I bring the check and he say this and this and this." Mr. Mikha stated that Mr. Shaheen "put Fletcher, I don't remember the last name."¹¹ I remember Fletcher." Mr. Mikha said he "handed check for five hundred. I like, 'well, what's going on here?' And he'd take a check and that he give me check right now and was like, 'Oh, just whenever, forgot just give this check,' and then I was like, 'Oh, okay.' So, I mean, I get my money back, you know? So, so when I get the money, like when I got the check I went to the bank. I cashed it." Mr. Mikha further explained that they never told him why they wanted the check stating, "They don't say nothing . . . I want to cover my ass, I don't want a trouble with the my, I don't want a problem for my family or for me. I don't know. They don't say nothing to me just, 'Write check.' I, I again, I was scared because there's no job and my English was zero. Not, not good. So, I was like, you know, so, I was like a little, little bit scared. I don't wanna court, I don't want them to fire me . . . because there is no job. I have a kids. I have a family . . . I want to feed my kids." Mr. Mikha had never before, and never since, given a campaign contribution to a politician, and did not know who Mr. Fletcher was. Mr. Mikha got his check from the company the same day he wrote his campaign contribution.

24. During the April 22, 2015, interview Mr. Mikha stated, "I make \$500 for donation was, I don't know for him, I don't know for his friend, I don't know." Mr. Mikha

¹¹ Fletcher is the candidate's last name.

was not sure of the identity to whom the donation was made. Mr. Mikha denied that the \$500 donation was a loan, stating, "I just make a check and then he give me a check." Mr. Mikha said that Mr. Arekat "gave me the money back." Mr. Mikha stated that, "And uh, he call me up, well actually when I make the check, I was like, I don't know any of this, how, and they were like, 'Just, just make a check, just make a check,' and I was like, 'Oh, here's the check,' and then after two hours, and I mean two hours later, he called me and says, 'Okay, so well come back to the yard.' I went back to the yard and they were, 'Oh, here's a check for 500 bucks for ya,'" and "they gave" Mr. Mikha a check. Mr. Mikha was emphatic in his claim that the \$500 donation was not a loan, telling Ms. Davis several times, "I'm telling you the truth." Mr. Mikha recalled two occasions when he borrowed \$100 or \$200, once for rent and once to buy something for his children. The \$500 check at issue here was not a loan because Mr. Arekat "gave me my money back."

25. On June 12, 2015, Ms. Davis and petitioner interviewed Mr. Mikha through a interpreter. The interview was recorded with Mr. Mikha's permission and transcribed. Mr. Mikha said that Mr. Shaheen asked Mr. Mikha to write the \$500 check. Mr. Shaheen called Mr. Mikha before Mr. Mikha got to work and asked him to bring a personal check with him. Mr. Mikha brought the check and Mr. Shaheen told him to write a check for \$500, telling him, "Just write a check to this 'Fletcher,' and that this check is not on you." Mr. Raheem, Mr. Ziada and Mr. Mikha were all present in the room when this occurred. Mr. Mikha stated, "When I was writing the check, I didn't really want to write the check because I am supporting a family, children, I was worried that they might fire me, so I did write the check. I wrote a check and then I left, an hour or two later, they asked me to go back to the yard, I went back to the yard, [Mr. Arekat] came out, and said, 'Here is a check for \$500.'" Mr. Mikha stated, "It's my right to know who, you know, the check for, it was written under my name. When he was giving me the check, he says, 'You don't have to worry about a thing. Here's your check.'" Mr. Mikha stated that he had enough money in his account to cover the check. He did not know who Mr. Fletcher was and he had never contributed to a political candidate before. As he explained, "They took \$500, and he gave me back \$500. . . . Because it's my money." Mr. Mikha made the check out for \$500 because "that's what he instructed me to do." They never told him why they wanted him to write a check to Mr. Fletcher. He wrote the check because he "has entered the country. My English is very limited. I was afraid they might fire me, and there's no other work available."

When Mr. Mikha borrowed money, Mr. Arekat kept track of it on a piece of paper in his office and would deduct the loan from Mr. Mikha's paycheck. Mr. Arekat called Mr. Mikha about this investigation but Mr. Mikha did not "want to say what he told me. He just kept talking, asking me to do things and I said to him, "No, I will just say what happened, the truth about what happened." Mr. Mikha concluded the interview by stating, "As I said before, I was just brand new in this country and I didn't know anything. This is the truth so you have to believe me."

26. On February 3, 2016, respondents deposed Mr. Mikha through an interpreter who was a different interpreter than the one petitioner used for Mr. Mikha's interview. Of note, the translation performed by respondents' interpreter were answered in the third person,

with the interpreter repeatedly using the words “he” and “his,” as opposed to answering in the first person which is how the witness would have responded. For example, when respondents’ attorney asked about Mr. Mikha’s employment in Iraq, the interpreter answered, “He’s a mechanic, tire shop mechanic.” (Mr. Mikha deposition transcript, page 7, lines 18-19.) When asked if Mr. Mikha had applied for US citizenship, the interpreter responded, “Yes, he applied.” (Mr. Mikha deposition transcript, page 8 lines 2-3.) Many of the questions during the deposition were answered in a similar fashion.

When asked if Mr. Mikha was interviewed by Ms. Davis, the response was, “He was answering, but was not understanding very well.” (Mr. Mikha deposition transcript, page 13, lines 15-17.) Mr. Mikha could not recall his conversations with Ms. Davis, and claimed he had a very bad memory. (Mr. Mikha deposition transcript, pages 14-16.) During the in person interview there was an interpreter present but “there was some stuff he didn’t understand.” (Mr. Mikha deposition transcript, page 29, lines 3-17.) Mr. Mikha did not remember what he did not understand, but it was “like 50/50 . . . he was not understanding.” Mr. Mikha claimed he had difficulty understanding the interpreter because they spoke different Arabic dialects. (Mr. Mikha deposition transcript, page 30, lines 2-21.)

Mr. Mikha stated that he “gave a personal check of \$500 to the company as everybody was doing the same thing.” (Mr. Mikha deposition transcript, page 17 line 8-11.) The check was payable to someone else, and the name was “Fletcher something.” (Mr. Mikha deposition transcript, page 17, lines 12-19.) Mr. Mikha “was at home and he received a phone call before he wrote that check. During that call, they told him like go to home and bring that check with you, and one of his friends also, he called him, too, and said bring one of your checks with you.” Mr. Mikha stated that the call was from Advantage Towing’s office. (Mr. Mikha deposition transcript, page 18, lines 4-15.)

When asked what the check was for, Mr. Mikha testified, “When they called him to bring a check, they didn’t know what it was about, but when he went to the office, he saw everybody there bringing checks . . . he thought somebody needed money at the company at the company and they were all helping. He thought somebody needed money.” Nobody told him what the money was for or forced him to write the check. (Mr. Mikha deposition transcript, page 20, lines 6, through page 22, line 3.) Two hours after writing the check, Mr. Mikha got a call and went back to the shop and “got the money back.” (Mr. Mikha deposition transcript, page 22, lines 8-20.) Mr. Mikha said that at the same time he wrote the check for \$500 he asked for a loan; he was then called back to the office later to pick up the check. (Mr. Mikha deposition transcript, page 28, lines 10-25.) Mr. Mikha did not remember telling petitioner and Ms. Davis at the interview that the \$500 check he received was not a loan, he could not remember what he said at the interview because he “had a problem with his back and even his leg.” (Mr. Mikha deposition transcript, page 34, lines 7-22.)

Mr. Mikha explained that he received loans from respondents. When asked how the loan was tracked, Mr. Mikha stated that respondents would “deduct that money from the paychecks.” When asked if he ever repaid loans in cash, Mr. Mikha testified, “When I get

my check, I cash it, come back the second day and pay them the loan.” (Mr. Mikha deposition transcript, page 27, lines 7-25.)

27. Mr. Mikha testified at this administrative hearing. Mr. Mikha took loans from the company. He was not forced to make a donation to the Fletcher campaign. He saw everybody else writing checks, so he did, too. He could not recall if Mr. Arekat told him to write the check, testifying, “that’s the problem.” Mr. Mikha claimed he had problems in his back and “they know that very well and I don’t remember.” He explained that “sometimes I say things and I don’t remember any has it’s been for five years.” He never saw any transcripts of his interviews. He did not completely understand the interpreter because he had a different dialect. Mr. Mikha was never told that he would be reimbursed or repaid for his donation. However, before he wrote the check, he needed money so he “took \$500 out.” He explained that he wanted a loan of \$500 and two hours after he wrote his donation “he called me and told me he had the check was available.” (Mr. Mikha did not clarify who “he” was.)

Mr. Mikha was asked about his previous statement where he claimed that he did not really want to write the check but was afraid he might be fired if he did not. Mr. Mikha remembered making that statement and it was true. But he did not remember saying that after he wrote his check, that one or two hours later Mr. Arekat came out and said, “Here is a check for \$500.” When asked about his previous statements regarding the check not being a loan, he explained that he was later reminded that it was a loan. (No follow-up questions clarifying this answer were asked.) Mr. Mikha testified that he received a loan on the same day he wrote a check for \$500 because “I needed the money.”

28. Evaluation: Mr. Mikha’s claims of translator misinterpretation were dubious in light of the fact that even though different interpreters were used, his answers always indicated that the \$500 check he got from respondents was a reimbursement for his campaign contribution. Respondents took his deposition and, even there, with a different interpreter, Mr. Mikha testified about getting “the money back,” supporting petitioner’s contention that the check was not a loan, it was reimbursement. Mr. Mikha’s claims of memory lapse were also doubtful, and, even if they were true, he was consistent at the interview and his deposition that he received a phone call to bring his check to work, that he did not know what it was about, and that he was “given back” the money for the check that he wrote. His attempts at this hearing to retract that prior testimony made his hearing testimony not credible. Moreover, it made no sense that he would write a check for \$500 on the day he needed a loan for \$500.

Investigation and Analysis Of Evidence Regarding Employee Mohammed Mohammed and His Wife, Wasan Khudhair

29. A California Form 460 from the Fletcher for Mayor 2012 campaign documented that on December 28, 2011, the campaign received a \$500 primary election campaign contribution from Mohammed Mohammed. He was identified as a Director of Advantage Towing. The corresponding check made out to the campaign indicated that on

December 19, 2011, Mr. Mohammed wrote a check for \$500 to the campaign drawn on his joint account at US Bank that he shared with his wife, Wasan Khudair.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3735, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Mr. Mohammed on December 20, 2011, for \$500.

30. A California Form 460 from the Bonnie Dumanis for Mayor 2012 campaign documented that on January 19, 2012, the campaign received a \$500 primary election campaign contribution from Ms. Khudhair. She was identified as a Homemaker. The form also identified a \$500 primary election campaign contribution received on January 19, 2012, from Mr. Mohammed. He was identified as a Lead Driver at Advantage Towing. The corresponding check made out to the campaign indicated that on January 19, 2012, Mr. Mohammed, wrote a check for \$1,000 to the campaign drawn on the couple's joint account at US Bank.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3777, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Mr. Mohammed on January 19, 2012, for \$1,000.

31. On April 16, 2014, Ms. Davis received a telephone call that she documented in her file notes. The male caller identified himself as Wasan Khudhair, but later advised that that was his wife's name and he was Mohammed Mohammed. He had received the subpoena documents and was calling to find out about the investigation. Mr. Mohammed initially could not recall the campaign contribution but then vaguely recalled the donation, although he could not recall how he came to make the donation. He stated several times that he made that donation because he wanted to support the candidate, but several times during the conversation he referred to Ms. Dumanis as "him." Mr. Mohammed said it was a big mistake because he was now being harassed for making the contribution. He stated that he currently lives and works in Oregon and does not have time to answer Ms. Davis's questions, but Ms. Davis pointed out that he called her. Mr. Mohammed denied being reimbursed for the contribution or using someone else's funds to make the contribution. He maintained the contribution came from his and his wife's personal funds. He denied ever being a director at Advantage Towing; he was only a driver. He now owns a towing company in Oregon but declined to provide his Oregon address, although he provided his cell phone number.

32. On April 22, 2015, Ms. Davis attempted to call Mr. Mohammed at the cell number he provided but there was no answer and the voicemail was not set up. She tried calling the number for his Oregon tow company, but the male who answered that number said that he does not work there anymore "since he moved to Oregon." Ms. Davis noted that the number she called was apparently the number for a San Diego tow company.

33. On April 23, 2015, Ms. Davis called a number she found for Wasan Khudhair. A woman who identified herself as Nadia told Ms. Davis that she is "Wasan's girlfriend" and that "he is out of town on an emergency." Nadia confirmed that Wasan is a male and that

Mr. Mohammed is his brother-in-law because Wasan's sister is married to Mohammed. Ms. Davis explained the purpose of her call and Nadia gave Ms. Davis Wasan's cell phone number, confirming that he was "in Oregon for the emergency." Nadia also gave Ms. Davis Mr. Mohammed's phone number. Nadia told Ms. Davis that Wasan speaks very little English and will want Nadia to translate for him.

34. On April 23, 2015, Ms. Davis called Wasan at the number Nadia had provided, explaining the purpose of her investigation. Wasan stated that he no longer works at Advantage Towing. Wasan told Ms. Davis that he was driving and asked if he could call her back. He did so and Ms. Davis attempted to record the interview, but it soon became apparent that he did not understand the questions she was asking. He told her he would have Mr. Mohammed call Ms. Davis back.

35. On April 23, 2015, Ms. Davis tried to call Mr. Mohammed but the phone number provided by Nadia was no longer in service.

36. On April 23, 2015, Mr. Mohammed called Ms. Davis who documented in her file notes: "He was very aggressive on the phone and wanted to know why I called Wasan Khudhair." She advised Mr. Mohammed that Wasan is a witness and she would like to interview him by telephone. Ms. Davis also told Mr. Mohammed that she been attempting to contact him and he "initially acted like I didn't know what he was talking about." [sic] She reminded him about their earlier discussion regarding the campaign contributions and then he remembered their discussion. Mr. Mohammed stated that "what happened is in the past so we should forget about it now." She explained she was investigating the matter and that he and Wasan were not in trouble, they were witnesses. Mr. Mohammed stated that they were both very busy and he would call her back later today or tomorrow.

37. On May 1, 2015, Ms. Davis received a call from Mr. Mohammed who wanted to know why someone had gone to Wasan's house. Ms. Davis explained that they were attempting to provide notice that the commission was seeking their bank records and explained they were trying to contact Wasan. Mr. Mohammed then told Ms. Davis that "Wasan" is his wife, "Wesan Khudhair" is his brother-in-law.¹²

38. On May 1, 2015, Ms. Davis recorded her interview of Mr. Mohammed with his permission, and it was transcribed. Ms. Davis prepared a summary of the interview, but respondents correctly asserted that Ms. Davis's interview summary rephrased things so as to make the statements more assertive than what the witness actually said. The summary was not considered other than to evaluate respondents' claims of bias; the actual recorded interview was reviewed and considered. From the onset of the interview, Mr. Mohammed

¹² Ms. Davis's references on her April 23, 2015, file notes to the brother-in-law, "Wasen Khudhair," were all spelled "Wasan" in her file notes and will be spelled here as she spelled them in her file notes. The misspelling does not change the substance of the notes other than to now make it understandable why Nadia said "Wasen" was a male; Ms. Davis was calling about the female "Wasan." Both names are pronounced the same.

wanted to know, “What’s going on because this has been going on for years now,” and he wanted to know why Ms. Davis “keep[s] harassing” his family members and what right she had to obtain his bank records. Ms. Davis explained that she was conducting an investigation and that he had promised to call her back, but did not. When asked what candidates he supported with his contributions Mr. Mohammed replied, “It was Bonnie.” Ms. Davis asked, “Bonnie who?” and Mr. Mohammed replied, “I forgot that other name but I know is the name ‘Bonnie.’” He could not recall if he contributed \$500 or \$1,000.

When Ms. Davis asked Mr. Mohammed to tell her about who asked him to make the contribution and what happened, Mr. Mohammed asked, “Why?” Ms. Davis explained that it was because she was investigating the contribution and Mr. Mohammed advised her that, “This candidate came to that business to, to Advantage Towing, and he had his campaign and asked for support.” Ms. Davis asked if the candidate was a man or a woman, and Mr. Mohammed replied, “It was a man. It was a gay guy. . . . He was a white male.” The candidate gave a speech and “the owner of [Advantage Towing] explained to us what they’re here, they’re here for and the, you know, he offered if, if someone can’t afford to do it he would lend the money to do it at the borrowing and I was one of the people I didn’t need to borrow money to make that candidate and that, that was it. It, like, I don’t know what’s the, I don’t know what the big deal about this.” Mr. Mohammed stated that “Bonnie” was the guy who came to the yard. When asked if Fletcher also came to the yard, Mr. Mohammed advised that Ms. Davis was confusing him, but he remembered only one candidate coming to the yard. There was a big meeting to advise that someone was coming for fundraising. He remembers another fundraising event at the office but he was not involved with that one.

Mr. Mohammed stated that his and his wife’s money was all his money, as he is “the supporter.” Mr. Mohammed identified the owner of the company as Mr. Arekat. Mr. Mohammed made contributions when he lived in Florida, but not to political candidates. Mr. Mohammed said that contributing to a political candidate “honestly that was something really new to me.”

Mr. Mohammed stated that a reason he donated was because it was tax-deductible. Also, the donation “really just wasn’t going to break me at that time and it is what it is. What, what I don’t understand and my comment in my person perspective, you know, any human being have the right to donate anything. It’s my money I can donate it anywhere I want. I can give you \$1,000 and no one can tell me why.” When asked if he was positive he had not borrowed money from Mr. Arekat to make his donation, Mr. Mohammed again denied borrowing money but if he had, “What’s the big deal?” When Ms. Davis asked if he had ever borrowed money from Mr. Arekat, Mr. Mohammed replied, “Absolutely not.” When Ms. Davis asked him to explain the check he got from respondents for the same amount as his contribution Mr. Mohammed stated “that’s impossible.” Mr. Mohammed did not remember the check but speculated it could be his paycheck. When Ms. Davis asked if Mr. Mohammed was registered to vote, he advised her that he does not want to register because he is “not political,” has “never voted,” and “never got involved in politics.”

Mr. Mohammed stated that he stopped working for Advantage Towing at the end of 2010, maybe the beginning of 2011. When Ms. Davis told him that he made two separate contributions, one in December 2011 and another in January 2012, Mr. Mohammed stated, "That's crazy. I don't recall that. I thought it was all one time and that was it." Mr. Mohammed asked Ms. Davis to repeat the dates of the campaign contributions and then said he left the company in March 2012. Mr. Mohammed admitted that his wife does not know she was a campaign contributor. Ms. Davis asked Mr. Mohammed about checks made out to him that were cashed at "Fuller Liquor and Deli" and he denied doing so because he had a bank account so would not need to cash his check at a store. Mr. Mohammed said that he would have "to check into this. Man, I don't know what's going on." Mr. Mohammed acknowledged that Mr. Arekat lent money to employees all the time, but could not recall ever borrowing money from Mr. Arekat. Loans were repaid "either out of the paycheck or whenever they cashed their paychecks."

39. The declaration of Mr. Mohammed was introduced at the probable cause hearing and received in evidence at this administrative hearing. On August 15, 2015, at Portland Oregon, Mr. Mohammed signed a declaration under penalty of perjury. In it he stated that he understood respondents were being accused of reimbursing him and his wife for political donations made by Mr. Mohammed to the Fletcher and Dumanis campaigns. Mr. Mohammed declared that he and his wife "personally made each of these donations on our own accord with our own money." They were not reimbursed and Mr. Arekat "never asked me or my wife to make these donations." Mr. Mohammed declared that respondents "had a general policy of giving its employees loans on request. I personally took a number of loans from Advantage." Mr. Mohammed attached checks to his declaration that he claimed represented loans that were given to him. He declared that he "was never directed how I was to use these loans . . . and was free to use them for any purpose, including campaign donations."

40. Evaluation: As with Mr. Iriqat, Mr. Mohammed's questions asking, "What the big deal was?" provided valuable insight into what was taking place. His initial answers to Ms. Davis that he could not recall the candidates' complete identity, the amount of his donations, when he made those donations, or even that he had made two separate donations demonstrated that he was not really involved in the decision to write these donations, lending further support to petitioner's position that these employees were "strawmen," Furthermore, his contributions were not to Mr. DeMaio, the candidate who came to the tow yard, so his explanation that he wrote a check because of that visit, was not supported by the facts. Moreover, his admissions to Ms. Davis that he did not know about checks cashed at a local store, his adamant denial of ever taking a loan, and his statement that he did not know "what's going on," suggested that he truly did not know what was "going on," despite the assertions in his declaration.

Investigation and Analysis of Evidence Regarding Employee Zyad Raheem

41. A California Form 460 from the Fletcher for Mayor 2012 campaign documented that on December 28, 2011, the campaign received a \$500 primary election

contribution from Ziyad Raheem. He was identified as a Director of Advantage Towing. The corresponding check made out to the campaign indicated that on December 20, 2011, Mr. Raheem wrote a check for \$500 to the campaign drawn on his Union Bank account.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3738, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Mr. Raheem on December 20, 2011, for \$500.

42. Ms. Davis interviewed Mr. Raheem three times. Each interview was recorded with his permission and transcribed. The first two interviews were conducted over the telephone and the third was in person with the use of an interpreter. Contrary to respondents' assertion at hearing, Ms. Davis asked open ended questions and used words the witness appeared to understand because his answers correlated to the questions asked, and the witness provided very specific information in response to Ms. Davis's general questions. Ms. Davis prepared a summary of the interviews, but respondents correctly asserted that the summary rephrased things so as to make the statements more assertive than what the witness actually said. The summary was not considered other than to evaluate respondents' claims of bias; the actual recorded interview was reviewed and considered.

On April 15, 2015, Ms. Davis conducted the first telephone interview. After confirming his permission to record the interview, his past employment at Advantage Towing, and his current employment, the fourth question Ms. Davis asked was, "And can you, just for the recording, explain what happened, how you were asked to make campaign contributions?" In response to that question Mr. Raheem stated:

No, I didn't make a contribution. They just asked me. The dispatcher called mm, called me. He asked me if I have a bank account. I told him "yes." He said, "Do you have checks?" I said, "Yes." He told me, "Okay bring the check over" and I called my, uh friend, he works with me and he lives in the same city that I live, in El Cajon. And, he works 11 to 11 so he was still at home, so I called him to, him, ask him to bring the check uh, with him when he got to come to work. So he came and he brought the check with the, with him. And he went to the office and they asked us to do a \$500 using our check and they pay us back the \$500.

In follow-up, Ms. Davis asked, "Okay, and when you say..." and Mr. Raheem replied, "What for, what name, they might think it's slick or something but they didn't explain anything about what for, or uh, who is that and uh, clearly we didn't know. Like we thought this gonna be like a favor to somebody or to the boss at that time." Mr. Raheem identified the dispatcher who had called him as Mr. Shaheen. Mr. Raheem told Ms. Davis that Mr. Arekat was at the office when he wrote the check but did not give Mr. Raheem any information describing it as, "Just 'do this' and that's it. Just like when you get an order, as a soldier, you know, 'just do it.'" He stated that it was a "tradition thing" that "when

somebody asks us something we got a do it.” Mr. Raheem explained that he had been in the United States only since 2009, and it took him seven to nine months to find a job.

Mr. Raheem stated that he was trying to refresh his memory about what Mr. Arekat said but could not remember now but that “he want [sic] to give the money to somebody but he don’t want that side to know what he did, uh, that he extend them the money.” He recalled Mr. Arekat putting it in biblical terms, from the story about paying with the right hand and not letting the left hand know. Mr. Raheem stated this was the only time he had ever made a campaign contribution and that he did not have enough money “to do the contribution to anybody else for even one dollar.”

43. Ms. Davis interviewed Mr. Raheem on the telephone a second time on April 22, 2015. During that interview Mr. Raheem denied that the \$500 he was given by Advantage Towing was a loan. In fact, Mr. Raheem was quite adamant about that stating, “No. No no. No. No. No. No, it was not a loan.” Mr. Raheem admitted that employees routinely got loans that they repaid when they got their paychecks. At one employee meeting the manager discussed a \$500 loan a driver had requested and told the employees to give the manager notice because, “We don’t give loans for more than two or three hundred . . .” Mr. Raheem stated that he never took a loan from respondents. Employees who received loans were not required to complete any paperwork; it was a “trust circle.” Mr. Raheem thought that Mr. Arekat kept track of the loans in a notebook or some other type of writing.

44. On June 12, 2015, Ms. Davis, petitioner, and a certified court interpreter interviewed Mr. Raheem in person. The interview was recorded with Mr. Raheem’s permission and transcribed. Mr. Raheem provided roadside assistance at Advantage Towing; he was never a director. Mr. Raheem stated that Mr. Shaheen called him and Mr. Mikha and asked them to bring their checkbooks to the business. Mr. Raheem “thought he wanted to make a deposit for the business.” Mr. Raheem called Mr. Mikha who was still at home and lived near him and told him to bring Mr. Raheem’s checkbook to work. When they were at the company, he and Mr. Mikha were both asked to write checks for \$500. Mr. Raheem was not sure whether Mr. Shaheen or Mr. Arekat told them to do that, “but later on, I knew it was [Mr. Arekat] who said that, because he came out to talk to us.” When asked what Mr. Arekat said, Mr. Raheem stated, “Frankly speaking, he didn’t say everything; he said he wanted to donate to some people, but he didn’t want to mention, he said he didn’t want to mention his name . . . He just didn’t want the people that were receiving the checks to know who’s giving them the money. According to our Arab culture, which is true, when we give someone [sic], they donate to somebody for whatever reason, we do not usually, it’s not a good practice, according to the culture, again, to divulge your identity.”

Mr. Raheem explained that Mr. Arekat was the one who told him that it was not okay to reveal the identity of the donor. Mr. Raheem stated that because this was a common Arab practice, Mr. Arekat’s comments were “convincing to us, because this practice is commonly used in Arab countries. And because we were new in the United States, we do not know anything about it, the laws of land . . . And we wrote the checks. I’m not sure, I don’t remember whether I wrote the name of the beneficiary myself, or he did do the name of the

beneficiary. He gave us checks from the company for \$500.” Mr. Raheem did not know why the amount was \$500, Mr. Arekat just “asked us to do it as a favor.” Mr. Raheem identified Mr. Mikha and Mr. Ziada as being two other individuals who made campaign contributions and received reimbursements for those contributions. When asked if he knew who Fletcher was, Mr. Raheem replied, “A name of a street.”

Mr. Arekat gave Mr. Raheem a check for \$500 at the same time that Mr. Raheem gave Mr. Arekat a check for \$500, explaining, “From the beginning, [Mr. Arekat] said give me a check for \$500 and I will give you back a check for \$500.” When asked if he understood that he would be reimbursed for his check, Mr. Raheem answered, “Because, yes of course I knew I was going to reimbursement [sic] because all the money I was making working from this company was \$500, so I couldn’t have have afford [sic] to give anybody any money.” Mr. Raheem denied that he ever repaid Mr. Arekat for the \$500 check Mr. Arekat gave him, stating, “No, I gave him a check, and he gave me one back as a check. It was like a matter of a moment, where he, you know, he borrowed from me, and then he paid me back.” Mr. Raheem could not refuse the request because it had taken him a long time to obtain employment, “When I found this job, I was doing my very best to hang on to the job to support my family” and Mr. Arekat was “familiar with my situation.” Mr. Raheem again denied taking a loan from Mr. Arekat, although he was required to reimburse the company for damage to a truck. Mr. Raheem acknowledged that there were employees who took loans and Mr. Arekat kept track of those loans on “like a ledger.”

45. On January 29, 2016, respondents deposed Mr. Raheem with the assistance of an interpreter, who was not the same interpreter petitioner used when he interviewed Mr. Raheem. Mr. Raheem testified that when he began working at the company in 2010, Mr. Shaheen was working there as a dispatcher. (Mr. Raheem deposition transcript, page 9, line 15 through page 11, line 18.) Mr. Raheem recalled that his interview by petitioner was done through an interpreter but did not recall it being recorded. (Mr. Raheem deposition transcript, page 14, lines 2-20.) Mr. Raheem testified that he always speaks English with people he works with “in ordinary matters” but when it comes to legal matters he would prefer to have an interpreter “because there might be some legal terms that” he does not understand. (Mr. Raheem deposition transcript, page 17, line 23 through page 18, line 3.) Mr. Raheem was scared when he received the subpoena because he did not know what it meant. (Mr. Raheem deposition transcript, page 20, line 23 through page 21, line 13.)

Mr. Raheem had never before written a check for a campaign contribution and he wrote the check at issue in this matter “because Mr. Arekat asked me to write it.” (Mr. Raheem deposition transcript, page 21, lines 19-24.) Mr. Raheem explained that he was working when a dispatcher called him and asked him to come to the yard and bring his checkbook. Mr. Mikha called Mr. Raheem and told him that he could swing by Mr. Raheem’s house and get his checkbook from his wife. Mr. Raheem called his wife and told her to get the checkbook ready for Mr. Mikha. (Mr. Raheem deposition transcript, page 22, line 7 through page 23, line 14.) Mr. Raheem did not know why he was asked to bring his checkbook. (Mr. Raheem deposition transcript, page 24, lines 18-23.) Mr. Raheem recalled that he was asked to write a check to “Fletcher something,” he could not remember but it was

“something like Fletcher.” (Mr. Raheem deposition transcript, page 26, lines 12-25.) He did not ask anyone why he was writing the check to Mr. Fletcher because “in our culture, if you write a charity check to someone, you don’t need to let people know about it.” (Mr. Raheem deposition transcript, page 27, lines 1-5.)

Mr. Raheem wrote the check with the understanding that the company was going to reimburse him the same amount. Mr. Shaheen wrote Mr. Raheem a check for the same amount at the same time. Mr. Raheem understood that his check was going to charity because that is what Mr. Mikha explained to him. (Mr. Raheem deposition transcript, page 27, lines 6-21.) Mr. Raheem came to the understanding that he was being reimbursed for writing his check “because they have actually reimbursed me with the check issued from the company name” on the same day with the transactions occurring simultaneously. (Mr. Raheem deposition transcript, page 28, lines 1-10.) Mr. Shaheen handed Mr. Raheem the check and told him it was to reimburse him. (Mr. Raheem deposition transcript, page 30, lines 7-17.)

When asked about his interview answer where he said Mr. Arekat had called and told him to come to the office with his checkbook, Mr. Raheem explained that he had deduced it was Mr. Arekat. Part of the basis for his belief was because he received a company check on the same day and no one is authorized to write a check except Mr. Arekat. (Mr. Raheem deposition transcript, page 34, lines 1-24.) Mr. Raheem knew of the loan policy at the company, but he never obtained one. He believed the loans were recorded on a piece of paper. (Mr. Raheem deposition transcript, page 38 line 25 through page 40, line 9.)

46. Mr. Raheem testified at this administrative hearing. He stated that he had been asked several times before about his December 2011 campaign contribution and he could not recall his previous answers. He testified that it has been a long time since his donation and he could not recall the circumstances surrounding it, could not recall the name of the candidate, although it could be “Fletcher,” but recalled there were other people writing checks and he wrote one, too. He was asked to bring a check to work and he did, but recalled little else. Mr. Raheem testified that the \$500 check he received was not a reimbursement, it was a loan. He admitted that he previously stated that Mr. Arekat told him to give a check for \$500 and he would get a check for \$500, but that statement “was a mistake from me.”

Mr. Raheem then testified that he did not know exactly what was happening, did not know if his check was a donation, he was trying to remember exactly when it happened but does not think they told him anything about the money or how much to donate. He then explained that at time he had been in a car accident with a company car and respondents were helping him pay off the damage. When asked about his January 29, 2016, deposition testimony regarding his campaign contribution that contradicted his trial testimony, Mr. Raheem could “not remember exactly” what he testified to previously, but claimed that at the same time he was writing his campaign contribution he took a loan from respondent for the car accident. Mr. Raheem testified that he repaid the loan sometimes as a deduction from his

paycheck and sometimes he would cash his paycheck and give the cash to respondents. Mr. Raheem testified that the company had a policy of giving loans to employees.

Mr. Raheem explained that the reason his testimony at hearing was different than his previous statements was because when he was interviewed he and the interpreter were speaking a different dialect and he was always correcting the interpreter. Sometimes he had to repeat it several times to get it correct. Mr. Raheem testified that he really did not know what he wrote his check for, but afterwards he realized it was a donation. Mr. Raheem admitted that he initially stated that he was reimbursed for his \$500 donation, but then “day after day I remembered things” and he recalled the car accident and that he was given checks “and when I started to remember all I realize all the checks [were given] together at the same time.” He believed the reason he said he was reimbursed for his \$500 donation was because he was “really shaky and I do not know what my answer was.” He also claimed that he merely “deduced” that the employees were writing the campaign contributions at the direction of Mr. Arekat, he did not know that to be a fact. Mr. Raheem explained that when first contacted, he was a little upset, a little bit unsure, and he “took his time to remember” and “things were explained to him” but he did not understand. He testified that he did not know the word “subpoena” and he was afraid when Ms. Davis asked him questions. He testified that he did not feel threatened by respondents.

47. Evaluation: Mr. Raheem made a poor, non-credible witness. His claim that the interpreter misunderstood him was not persuasive given that a different interpreter was used at his deposition than was used at his interview and during both his deposition and his interview he stated that he was told to bring his checkbook to work, did not know why, did not know to whom his checks were being made, and that he was being reimbursed for his check because respondents gave him a check at the same time he wrote his campaign contribution. In light of those two previous occasions when his statements, interpreted by two different interpreters, were recorded and were consistent, his testimony at this hearing was not credible. Moreover, his new claims of memory lapses, car accident, and loans, appeared contrived, further supporting the impression that his testimony offered at this hearing was false.

Investigation and Analysis of Evidence Regarding Employee Husam Shuibat

48. A California Form 460 from the Fletcher for Mayor 2012 campaign documented that on December 28, 2011, the campaign received a \$500 primary election campaign contribution from Husam Shuibat. He was identified as a Director of Advantage Towing. The corresponding check made out to the campaign indicated that on December 20, 2011, Mr. Shuibat wrote a check for \$500 to the campaign drawn on his Wells Fargo account.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3736, signed by Mr. Arekat, drawn on the company’s Union Bank account, made out to Mr. Shuibat for \$500 on December 20, 2011.

49. A California Form 460 from the Bonnie Dumanis for Mayor 2012 campaign documented that on March 17, 2012, the campaign received a \$500 primary election campaign contribution from Mr. Shuibat. He was identified as a Driver at Advantage Towing. The corresponding check made out to the campaign indicated that on March 16, 2012, Mr. Shuibat wrote a check for \$500 to the campaign drawn on his Wells Fargo account. Of note, Mr. Shuibat's check for the Fletcher campaign was check number 151 and his check for the Dumanis campaign, written three months later, was check number 152.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3860, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Mr. Shuibat¹³ on March 16, 2012, for \$500.

50. Ms. Davis reported that she was unable to interview Mr. Shuibat because he currently resides in Palestine. Respondent asserted that all checks made out to him were loans and introduced numerous other checks made out to him which were also loans. However, as with the other campaign contributions, that claim was dubious given that the checks were written on the same day and in the same amount as the campaign contributions.

Investigation and Analysis of Evidence Re: Employees Shaheen Shaheen and Manal Asad

51. A California Form 460 from the Fletcher for Mayor 2012 campaign documented that on December 29, 2011, the campaign received a \$500 primary election campaign contribution from Shaheen Shaheen. He was identified as a Homemaker. The corresponding check made out to the campaign indicated that on December 19, 2011, Mr. Shaheen wrote a check for \$500 to the campaign drawn on the joint account at Citibank that he shared with his now ex-wife, Manal Asad.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3734, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Ms. Asad, on December 20, 2011, for \$500.

52. A California Form 460 from the Bonnie Dumanis for Mayor 2012 campaign documented that on January 19, 2012, the campaign received a \$500 primary election campaign contribution from Ms. Asad. She was identified as a Child Nutritionist in the La Mesa School District.¹⁴ The form also identified a \$500 primary election campaign contribution received on January 19, 2012, from Mr. Shaheen, Ms. Asad's now ex-husband. Mr. Shaheen was identified as an Office Manager at Advantage Towing. The corresponding check made out to the campaign indicated that on January 19, 2012, Mr. Shaheen wrote a check for \$1,000 to the campaign drawn on the couple's joint account at Citibank.

¹³ The Advantage Towing check spelled his first name "Hussam."

¹⁴ During her investigation, Ms. Davis confirmed that Ms. Asad worked for the La Mesa School District.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3776, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Ms. Asad on January 19, 2012, for \$1,000.

53. A California Form 460 from the Carl DeMaio for Mayor 2012 campaign documented that on October 5, 2012, the campaign received a \$500 general election campaign contribution from Ms. Asad. She was identified as a Dispatcher at Advantage Towing. The corresponding check made out to the campaign indicated that on October 5, 2012, Mr. Shaheen, signed the check for \$500 made out to the campaign from the couple's joint Citibank account.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 4158, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Ms. Asad on October 5, 2012, for \$500.

54. On August 29, 2014, Ms. Davis received a call from Mr. Shaheen who declined to have his interview recorded. He requested copies of the campaign contribution documents to "jog his memory," and provided Ms. Davis with his e-mail address. Ms. Davis documented their conversation in her file notes and summarized their conversation in the e-mail she sent Mr. Shaheen summarized below in Finding of Fact No. 55.

55. On Friday, August 29, 2014, Ms. Davis sent an e-mail to Mr. Shaheen enclosing campaign contribution documents relating to his and his now ex-wife's three campaign contributions. Ms. Davis's e-mail summarized her discussion with him on that same day. Ms. Davis wrote,

You explained that you did not recall you or your wife making the contributions described to you over the telephone; however, you asked if you could take a look at the records we received in order to jog your memory. During our conversation, you vaguely thought you may have contributed to the Fletcher committee in support of his stance on immigration reform. You stated that you've never heard of Bonnie Dumanis and didn't know what she was running for. In addition, you confirmed that neither you or [sic] your wife were ever given funds (or reimbursed) by someone else in exchange for making any campaign contribution. You said you attended a fundraiser for something where you filled out your contact info for a flat screen TV drawing and wondered if that's how someone got your name. You also confirmed that neither you or [sic] your wife have ever worked for Advantage Towing and do not know how or why that employer information would have been reported by the committees. You confirmed that you and your wife do not know anyone at Advantage Towing and that you are not connected in any way to Advantage Towing. You also

confirmed that you have never been a “homemaker” as reported by the Fletcher committee. You explained that your wife is a stay-at-home mom and she would not have made any contributions because you are the only person who would have written any checks from your bank account. You stated that you’ve been employed by Limelight Security since 2011 that had no association with Advantage Towing. You also noted that your wife would not have worked outside the home because her command of the English language is not very good. She is a stay-at-home mom and has never worked as a “Child Nutritionist” for the “La Mesa School District.” If I’ve misunderstood or misstated anything you told me please let me know right away so I can correct my notes concerning our conversation today.

Ms. Davis concluded her e-mail by asking Mr. Shaheen to “please call me on Tuesday” after he reviewed the attached campaign contribution documents and “[i]n particular, I need you to let me know if you now recall making these contributions since you had indicated that you are very concerned someone may have been fraudulently writing checks from your bank account that was closed several years ago.”

56. On October 22, 2014, Ms. Davis called Mr. Shaheen at the phone number he had provided when she first spoke with him in August. The male who answered the phone had a Middle Eastern accent but denied that he was Mr. Shaheen.

57. On October 22, 2014, Ms. Davis attempted to locate an alternate phone number and found one for Ms. Asad on the DeMaio campaign contribution forms. Ms. Davis called that number and the male who answered identified himself as Mr. Shaheen. Ms. Davis prepared a summary of this call to Mr. Shaheen, that was not recorded, and a summary of the second call she made to him on this date that was recorded. Given respondents’ assertions that the summary was not what the witness actually said, the summary was only considered to evaluate respondents’ claim of bias; the actual recorded interview statements were considered.

During the unrecorded telephone conversation, Ms. Davis documented that Mr. Shaheen initially acted like he did not know what Ms. Davis was talking about, until Ms. Davis reminded him of their earlier conversation and the e-mail she sent after it. Ms. Davis stated that she was concerned because Mr. Shaheen told her that neither he nor his wife had anything to do with Advantage Towing but his “bank records reflected differently.” Mr. Shaheen “then denied telling me previously that he had not worked for Advantage Towing or had anything to do with Advantage Towing.” When Ms. Davis asked him if that were true, why hadn’t he corrected her recitation of that fact in her e-mail, but Mr. Shaheen did not respond. Ms. Davis further stated that it was “very strange” that he was now stating he was an employee of Advantage Towing but the company checks deposited into his bank account were not made out to him, they were all made payable to his wife. Mr. Shaheen did not

respond to that point, either. Ms. Davis then told Mr. Shaheen that “there appears to be very suspicious activity on his bank account around the time of his contributions” and the commission would like him to come in for an interview. Ms. Davis explained that the “suspicious activity” was because it appeared that he had been reimbursed for making the campaign contributions. Mr. Shaheen denied this and denied that anyone gave him the funds to make the contributions. Ms. Davis advised that she wanted to set up an interview with him, but Mr. Shaheen stated that he worked six days per week, 12 hours per day, however, he agreed to a telephone interview.

58. Fifteen minutes later, Ms. Davis called Mr. Shaheen a second time on October 22, 2014, and telephonically interviewed him. The interview was recorded with his permission and transcribed. Commission Executive Director Stacey Fulhorst was present during the interview. Mr. Shaheen acknowledged that he is also known as Isaac Shaheen. Mr. Shaheen denied that he had ever spoken with Ms. Davis or that he had received her e-mail. Mr. Shaheen did not understand what the word “contribution” meant, but did know “the name or the word ‘donation.’” He denied that he was reimbursed to make the donations stating, “Nobody give me a check to reimburse because I give a donation and it’s only a donation. It wasn’t anything else besides a donation. So, why would I get reimbursed from somebody else to make a donation?” Mr. Shaheen stated that he is now an employee of Advantage Towing, but at the time of the contributions only performed odd jobs at the tow yard because his wife “used to work here.” He would come and “help the owner cleaning the yard and stuff like that.” Mr. Shaheen described the odd jobs he performed, he was called when the company needed “extra manpower,” but he did not “start working officially on the payroll” until the beginning of 2014. Mr. Shaheen denied working for a security company.

Mr. Shaheen denied having insufficient funds in his account to cover the check, explaining that delays between the time a check is written and when it is cashed provides ample time to have sufficient funds to cover the check. Mr. Shaheen frequently received loans from Mr. Arekat. When he was low on funds, he would simply ask for a loan. Mr. Shaheen explained that the reason he gave the campaign contribution was “to help people to help us out in the future. So that’s why we give the money. I think that guy came in here, I loved his speech. His speech was nice. So, I had, I, I was so excited about them and I want to help them out and then I give them the donation.” Mr. Shaheen could not recall who gave the speech, or remember the names of any of the candidates he supported, but he did remember “that a guy came in here and somebody, I don’t know what guy, and all the drivers and the owner and everybody was, uh, sitting right there and we was just talking and I loved his speech and I decide to make a donation and I did.” Upon further questioning, Mr. Shaheen could not remember if the person who spoke was male or female and could not remember if he actually heard the speech, but did remember that it was a candidate who came to the tow yard to speak. Mr. Shaheen could not remember if all three candidates to whom he made contributions came to speak at the tow yard.

When Ms. Davis explained that the commission could levy heavy fines if it found that violations had occurred, Mr. Shaheen explained that he and his wife were going through a separation and he was focused on that, and not concerned about things that happened two

years ago. He explained that the campaign contributions were not “that important issue in my life at the time to keep it memorized in my mind to know exactly what that guy he was talking about and what was the man or woman or what was my bank account balance at the time I gave the check . . . I really don’t understand that this is what happened, I went through a lot and I can’t really remember what had happened at that time and that’s it.” When Ms. Davis told Mr. Shaheen that the information he was giving today was different than the information he provided in August, he stated that he had not talked to her before. When Ms. Davis was obtaining his and Ms. Asad’s current contact information, he stated, “I’m hoping that you are not one of those kind of people who call people trying to get information from them,” and that his ex-wife “never knew anything” about the campaign contributions.

59. On August 16, 2015, Mr. Shaheen signed a declaration under penalty of perjury stating that he was “not an employee of Advantage Towing as of December 2011 and January 2012.” During that time his wife, Ms. Asad, was employed as a dispatcher. He is currently employed as a dispatcher. Mr. Shaheen declared that statements by Mr. Raheem, Mr. Mikha and Mr. Ziada, claiming that Mr. Shaheen personally directed them to make political donations that the company would reimburse, are false. Mr. Shaheen never told them that they had to make any political donations or that the company would reimburse them for any political donations. Mr. Shaheen was not an employee during that time and had no authority to make representations on behalf of Advantage Towing. Mr. Shaheen declared that it is not true that he was reimbursed for donations he made to the Fletcher and Dumanis campaigns. He “personally made each of these donations on my own accord, with my own money.” He “did not receive any checks for any purpose” from the company and Mr. Arekat “never asked me to make these donations.” He is aware of “a general policy of giving [Advantage Towing] employees loans on request” and he and Ms. Asad have taken a number of loans from the company but were never directed about how to use the loans.

60. At the August 19, 2015, probable cause hearing respondents, through their attorney, introduced a declaration of Ms. Asad, purportedly signed by her, dated August 17, 2015, in which she declared under penalty of perjury that she understood that respondents were being accused of reimbursing her for political donations she made to the three campaigns. She declared, “This is not true. I personally made each of these donations on my own accord, with my own money. I was not reimbursed by Advantage for doing so. Ayman Arekat never asked me to make these donations.” Ms. Asad further declared that she was aware the company “had a general policy of giving its employees loans on request. I have taken a number of loans” from the company and “was never directed how I was to use these loans . . . and was free to use them for any purpose, including campaign donations.”

61. On October 23, 2014, Ms. Davis interviewed Ms. Asad at her residence. The interview was recorded with permission and transcribed. Ms. Davis prepared a summary of the interview, but given respondents’ assertions that the memorandum provided a biased view of the interview, it was not considered in this decision other than to evaluate the claim of bias. Additionally, many of Ms. Asad’s responses were “Mh-mh” and “Uh-Uh,” making it unclear as to whether or not her response was “Yes” or “No.”

Ms. Asad stated she was a dispatcher at Advantage Towing for six years, leaving a year and a half ago. Ms. Asad still worked as a child nutritionist at the La Mesa School District. Mr. Shaheen also worked at Advantage Towing performing “some yard work and stuff like that.” Ms. Asad stated that Mr. Shaheen was a homemaker, as listed on the Fletcher campaign documents, but she disavowed any knowledge of the campaign contributions stating that, “I don’t know what he was doing. He was taking care of all the financial situation. Paying the bills and doing everything.” She did not think anyone gave him money to make the contribution but acknowledged that they could not afford to make a \$500 campaign contribution. She knew nothing about the Advantage Towing checks for \$500 made out to her. After she found out about the investigation, Ms. Asad separated her bank account from Mr. Shaheen’s bank account and told him, “Whatever you guys did you fix it, don’t get me involved in your problems.” Mr. Shaheen told her that he was going to call the individual identified on the subpoena documents and later told her he had contacted that individual. (This statement contradicted Mr. Shaheen’s claim that he never called Ms. Davis.) Ms. Asad told Ms. Davis that, “This is not my problem” and stated several times that she lacked any knowledge regarding Mr. Shaheen’s handling of their financial affairs.

62. On January 28, 2016, petitioner deposed Mr. Shaheen. Mr. Shaheen testified that he began working at Advantage Towing in 2013. (Mr. Shaheen deposition transcript, page 7, lines 11-18.) Before that he would come in during his free time to be around his wife who worked there and help her, doing odd jobs. (Mr. Shaheen deposition transcript, page 7, line 23 through page 9, line 19.) He was paid in cash. (Mr. Shaheen deposition transcript, page 9, line 23-25.) He often received loans from respondents. (Transcript, page 11, lines 5-20.) The loans were made by check. (Mr. Shaheen deposition transcript, page 13, lines 8-9.) They would ask for the money to be paid back by taking it out of his wife’s paycheck, or he would work for free, or they would repay it in cash. (Mr. Shaheen deposition transcript, page 13, line 15 through page 14, lines 6; page 26, lines 5-13.) Mr. Shaheen did not know how Mr. Arekat kept track of the loans. (Mr. Shaheen deposition transcript, page 14, lines 7-9.) It was very common for employees to receive loans from respondents. (Mr. Shaheen deposition transcript, page 15, lines 4-13.) When petitioner advised that he was going to ask questions about the political campaign contributions, respondents’ counsel advised Mr. Shaheen of his Fifth Amendment right not to incriminate himself. Mr. Shaheen then refused to answer any questions regarding the campaign contributions. Of the questions he did answer, he testified that he did not recall why he received a check for the same amount as a campaign contribution and that it was not uncommon for him to write a check when he had insufficient funds in his account because he would know that the money is coming. (Mr. Shaheen deposition transcript, pages 22-25.) Mr. Shaheen never wrote a campaign contribution before December 19, 2011, and never wrote a campaign contribution after January 2012. (Mr. Shaheen deposition transcript, page 25, lines 12-17.)

Mr. Shaheen testified that Mr. DeMaio came to the business to speak to employees. (Mr. Shaheen deposition transcript, page 26, lines 14-19.) Mr. Shaheen could not remember what happened when the candidate got there, when he told employees about the visit, or what the employees were asked to do because Mr. Shaheen has “a very short memory.” (Mr.

Shaheen deposition transcript, page 27, lines 5-25.) Mr. Shaheen remembers employees making campaign contributions. (Transcript, page 28, lines 1-9.) Mr. Shaheen is not registered to vote. (Mr. Shaheen deposition transcript, page 28, lines 10-11.)

Mr. Shaheen was shown the declarations he and his wife signed. He testified his wife signed it because she told him that she had done so. (Mr. Shaheen deposition transcript, page 28, line 12 through page 29, line 4.) He never heard anyone at the company discuss reimbursing employees for political contributions or making loans to employees based on political contributions. (Mr. Shaheen deposition transcript, page 29, lines 11-18.)

63. On February 3, 2016, petitioner deposed Ms. Asad. She previously worked for Advantage Towing. She also worked for the La Mesa Valley School district as a child nutritionist. She currently worked for the Cajon Valley School District. (Ms. Asad deposition transcript, page 7, lines 16-24; page 10, lines 4-5.) She described her work at Advantage Towing where she performed customer service. (Ms. Asad deposition transcript, pages 14-20.) She worked at Advantage Towing from 2008 until 2013. Mr. Shaheen did not work there when she did. (Ms. Asad deposition transcript, page 10, line 21 through page 11, line 1; page 20, line 14 through page 21, line 24.)

Ms. Asad never made a political campaign contribution. She did not know who Ms. Dumanis or Mr. DeMaio was. She never wrote a check for either candidate. (Ms. Asad deposition transcript, page 24, lines 4-24.) She had no idea how a check with her name on it for a campaign contribution was made to either candidate. She testified, "I did not write the check." (Ms. Asad deposition transcript, page 25, lines 1-25.) Ms. Asad borrowed money from respondents. (Ms. Asad deposition transcript, pages 26-27.) Mr. Arekat deducted the loans from her paychecks. Each repayment was through a paycheck deduction. (Ms. Asad deposition transcript, page 28, lines 3-12; page 29, lines 13-15.)

Ms. Asad admitted that Mr. Shaheen signed her name on her declaration. He told her that he had signed her name on it. She never read the declaration. (Ms. Asad deposition transcript, page 29, line 16 through page 29, line 1.) Mr. Shaheen told her "it was something about giving money," and told her "don't worry about it." (Ms. Asad deposition transcript, page 30, lines 2-11.) She and her husband could not have afforded to make a \$500 contribution in 2012 or 2013. (Ms. Asad deposition transcript, page 33, lines 23-25; page 34, lines 1-3.)¹⁵ Mr. Arekat and Mr. Shaheen are childhood friends. (Ms. Asad deposition transcript, page 34, lines 18-22.) Mr. Shaheen handled all the finances. (Ms. Asad deposition transcript, page 37, lines 3-23.)

64. Mr. Shaheen testified at this administrative hearing that he began working at Advantage Towing two years ago when he had "his paperwork," after he got his

¹⁵ Because petitioner asked Ms. Asad if she recalled if she could make the 2011 contribution, it was unclear from her answer if she could not recall they could not afford it or if they could not afford it. (Transcript, page 33, lines 20-22.) As such, no findings on this point will be made.

“immigration status adjusted.” He admitted that before that time he worked for Advantage Towing and has been doing the same job since he first began working for them. He testified that he has been a dispatcher since 2007, as well as performing other job duties at the company. He received loans many times from the company, and was not aware of any official policy regarding loans. He paid back all the loans he received by cashing his paycheck and giving money to respondents. He does not know how respondents kept records of loans made to employees. There were checks that were pre-signed by Mr. Arekat that Mr. Shaheen was authorized to write; he never wrote a check without authorization. He was not authorized to make loans to employees and he never did so. He has now been told that when he writes checks for loans he is to write “loan” on the check.

Mr. Shaheen could not recall the amount of his campaign contributions. He acknowledged that on the day he wrote the check for the Fletcher campaign, he received a check made out to his ex-wife, Ms. Asad. The couple divorced in June 2015, but they were still married when he received the \$500 check from respondents. Mr. Shaheen handled all their finances. Mr. Shaheen testified the check was a loan. His wife did not work at the company when he received the check but it was in her name because they shared an account at the time and she was an American citizen, he was not. Mr. Shaheen admitted that he worked under his ex-wife’s name because she had paperwork as a US citizen and he did not. He admitted that he used Ms. Asad’s Social Security information when he worked for respondents.

Mr. Shaheen testified that he made his campaign contributions because he saw everyone else giving money and he decided to donate, too. He denied asking Mr. Mikha or Mr. Raheem to make a contribution. He denied asking them to bring their checkbooks to work. Mr. Shaheen did not know if anyone else asked them to do so. He did not attend any meetings with candidates or campaign rallies. He did not know how he heard of either candidate. He recalled that there was another candidate who came to the yard but he did not see to whom that candidate spoke and he did not attend that meeting. There were employees who did not make campaign contributions and he never heard of any repercussions against them for not donating. Mr. Shaheen admitted that he had never before and has never again written a campaign contribution for a candidate. Mr. Shaheen stated that he had \$1,000 and could afford to make a donation to the Dumanis campaign for that amount so that is how he selected that amount of his donation. He was not aware of any campaign contribution limits. Mr. Shaheen wrote the campaign contribution check on his wife’s behalf because when they were married he made those decisions. He did not consult with his wife about these donations. He physically gave the check to the two candidates, but did not recall how he did so. No one at either campaign asked him for his occupation, his address, or his employment information. Respondents did not repay or reimburse him for the donations he made to the campaigns; his donations were voluntary.

Mr. Shaheen admitted that he lied at his deposition when he testified that his wife worked for the company, but is now changing that testimony and admits he was working for respondents. The reason he is changing his testimony is because he now has a different immigration status and “got to know my rights and responsibilities.” Mr. Shaheen explained

that now, at this hearing, he is telling the truth: he was working for the company, not his wife. He also claimed that when he was interviewed he was nervous and “it seemed like a lot of pressure.” Mr. Shaheen testified that his ex-wife now works for respondents doing customer surveys. Mr. Shaheen also admitted that his declaration submitted at the probable cause hearing contained untrue statements. The second paragraph that states he worked for respondents in 2011 and 2012 is not true; he has been working for them since 2007. The third paragraph that states that Mr. Shaheen personally made the three donations is also not true; he made them on behalf of his wife. Mr. Shaheen also admitted that his deposition testimony where he testified that he repaid the loans by having the money withheld from his paycheck is also not true as he cashed his check and gave respondents the money.

65. Ms. Asad testified at this administrative hearing. She is Mr. Shaheen’s ex-wife, and is currently employed by the Cajon Valley School District. Before that she was employed by the La Mesa Spring Valley School District. She testified that she did not work for respondents for seven or eight years as she claimed at her deposition. She admitted that she did not tell the truth at her deposition. She never volunteered or performed any services for respondents. Ms. Asad testified that currently she sometimes works for respondents doing customer satisfaction surveys. She began that employment in October 2015. Ms. Asad prepares summaries of the customer responses that she e-mails to Mr. Shaheen and he forwards them to respondents.

Ms. Asad testified that she never wrote a campaign contribution to Mr. DeMaio or Ms. Dumanis, and does not know if Mr. Shaheen wrote one. Her household could not afford to write a \$500 campaign contribution in 2012. Mr. Shaheen wanted her to sign off on the \$1,000 check, she did not know why and he did not tell her anything about the check.

When she was shown the declaration that was introduced on her behalf at the probable cause hearing, Ms. Asad testified that she did not recognize the document and the signature on the declaration was not her signature. She testified that Mr. Shaheen signed the document which is how “her signature” came to be on it. She testified that Mr. Shaheen told her there was “a piece of paper that needed to be signed and I told him to sign it.” Ms. Asad testified that the police came to her home after her deposition and she felt scared. She claimed that they claimed she did not tell the truth. She denied that respondents threatened her and denied ever asserting that they had.

66. Evaluation: Mr. Shaheen made a completely non-credible witness. His admissions to lying under oath and changing his previous testimony, demonstrated his bias and made his testimony unreliable. His claimed lack of knowledge about the campaign contributions, when other employees told Ms. Davis that he had instructed them to write the checks, were not believable. Moreover, his admission to working under his wife’s name and Social Security number demonstrated that he had no qualms with breaking the law making his statements all the more unreliable. And the fact that he would sign his wife’s name to a declaration submitted in a court proceeding spoke volumes about both his and respondents’ credibility. Ms. Asad, who had previously been candid and honest with the commission, cast doubt upon her credibility when she admitted to lying about her employment history.

However, she was steadfast in her assertion that she had nothing to do with these campaign contributions, thereby further bolstering petitioner's claims that respondents used Mr. Shaheen and Ms. Asad as "strawmen" to make campaign contributions that exceeded the legal limits.

Investigation and Analysis of Evidence Re: Employee Mohammed Ziada and his Wife, Dina

67. A California Form 460 from the Bonnie Dumanis for Mayor 2012 campaign documented that on January 19, 2012, the campaign received a \$500 primary election campaign contribution from Ms. Ziada. She was identified as a Homemaker. The form also identified a \$500 primary election campaign contribution received on January 19, 2012, from Mohammed Ziada, Ms. Ziada's husband. Mr. Ziada was identified as a Service Provider at Advantage Towing. The corresponding check made out to the campaign indicated that on January 19, 2012, Mr. Ziada wrote a check for \$1000 to the campaign drawn on the couple's joint account at Bank of America.

As part of her investigation, Ms. Davis obtained a check from Advantage Towing, check number 3778, drawn on the company's Union Bank account, signed by Mr. Arekat, made out to Mr. Ziada on January 19, 2012, for \$1000.

68. On April 21, 2015, Ms. Davis interviewed Mr. Ziada at his business.¹⁶ The interview was recorded with Mr. Ziada's permission and transcribed. Ms. Davis prepared a summary of her interviews with Mr. Ziada, but given respondents' assertions of biased summaries, the summary was only used to evaluate that claim, the actual interviews were read and considered. At the beginning of the interview, Mr. Ziada advised Ms. Davis that English was his second language and told her, "I'm guessing what you're talking about but like, you know, if someone today like, maybe I could like you know, I know exactly. Uh, what the things when you talk about this one, maybe, year ago, like we do like some donation." Based upon the statements, it is unclear whether Mr. Ziada had a complete understanding of the questions he was asked, casting doubt on this interview.

Mr. Ziada denied that anyone forced him to write the donation, noting that when everyone was writing donations they "convinced us" to do one. When asked to whom he made the donation, Mr. Ziada stated, "Yeah, uh, it's like a, her name is, or his name is, like Mexican name. It's very, very hard for me to, to save it." Mr. Ziada was asked at work to make a donation by Mr. Arekat and Mr. Shaheen. After Mr. Ziada wrote the check he was given a check from Advantage Towing. Mr. Arekat gave loans to employees when they were "short on money." Mr. Arekat would collect a few hundred dollars from every paycheck until the loan was paid off. During the interview Mr. Ziada told the investigator that he was "trying to be like true but you got to make sure that I don't get in trouble from this" and he asked if Mr. Arekat would find out he had been interviewed. He said he had been contacted by Mr. Arekat who made indirect comments, and who came from a powerful

¹⁶ Ms. Davis documented that Jennifer Blaiser from the commission was also present during the interview.

family in Palestine, and it “was hard to tell” if Mr. Arekat or his family would harm Mr. Ziada’s family in Palestine.

69. On April 22, 2015, Ms. Davis conducted a telephone interview with Mr. Ziada that was recorded and transcribed. Ms. Davis made the following notation in the transcript memo: “Note: I got Mr. Ziada confused with our other witness, Zyad, who contributed to Fletcher.” Accordingly, this called into question many of Mr. Ziada’s responses since he did not contribute to the Fletcher campaign, he contributed to the Dumanis campaign. Mr. Ziada stated that Mr. Arekat kept track of employees’ loans by recording the information on a piece of paper in his office and deducted the money borrowed from the employees’ paychecks. Mr. Ziada said that the \$500 was not a loan, it was money Mr. Arekat gave him to cover the campaign contribution check Mr. Ziada wrote; Mr. Arekat never asked Mr. Ziada to pay it back.

70. On June 12, 2015, Ms. Davis and petitioner interviewed Mr. Ziada through an interpreter. The interview was recorded with Mr. Ziada’s permission and transcribed. As with the other interviews, respondents correctly asserted that Ms. Davis’s interview summary rephrased what the witnesses actually said. Again, for purposes of this decision, the summary was only considered to evaluate respondents’ claim of bias; the actual interview statements were reviewed and evaluated. During the preliminary portion of the interview when the petitioner was explaining the importance of telling the truth, Mr. Ziada, unsolicited, stated, “I do understand the law, and I have a lot of respect for, and I have no, absolutely no reason to, to lie.” Mr. Ziada stated he has a “Bachelor degree in law, a Diploma in legal skills,” and worked as a legal consultant for the Palestinian National Authority. Mr. Ziada stated that checks totaling \$1,000 were written, \$500 under his name and \$500 under his wife’s name. Mr. Shaheen asked him to write the checks but did not tell him why. Mr. Ziada “was told who ever writes a check, as a contribution, we will reimburse him the money back.” Mr. Ziada understood/hoped for “positive consequences” to follow from writing the check. Mr. Ziada believed he was reimbursed “maybe at the same time, or maybe a day or two after.” When asked if he knew what the contribution check was for, Mr. Ziada stated, “It was a contribution to some individual, I don’t even remember whether it’s a male or a female, I did read the name, but I understood that this individual is intending to go for elections.” Mr. Ziada has made non-political contributions, but this was his only political contribution.

Mr. Ziada was aware that Mr. Arekat was contacting employees who made donations and when asked if Mr. Arekat told Mr. Ziada to say anything, he replied, “No, but he was stressing the fact that, saying that, ‘You’re the one who made the contributions, I have nothing to do with it.’ . . . he was trying to clear himself from the responsibility, saying, ‘I did not ask you or order you to do anything. You’re the one that did this on your own.’” Mr. Ziada stated that he would not have made this contribution on his own; he only “made this contribution because I knew the money will be paid back to me.” When asked why he and his wife each made donations of \$500, Mr. Ziada stated, “The amount that was allowed. The maximum amount allowed was \$500 per individual.” Mr. Ziada stated that the money he received was not a loan. When Mr. Arekat gave employees loans, he kept track of the

information on the paper at his office with all the names on it and he wrote down the installments that he was taking and the outstanding balances. When asked how he knew that information, Mr. Ziada stated, "Shaheen told me." When asked if he had anything else he wished to say, Mr. Ziada stated that he believes "this whole thing is a result of the competition between [the towing companies] these are companies that are competing for AAA's business under the districts where they operate, and each side is willing to do anything to have control over districts." Mr. Arekat's friends told Mr. Ziada "that there is stiff competition for the districts and that there are certain companies that want to drive [Mr. Arekat] out of districts."

71. On December 16, 2015, respondent deposed Mr. Ziada with the aid of an interpreter, who was a different interpreter than the one used during the interview. Mr. Ziada finished his university education in Palestine, obtained a degree in law, practiced as a lawyer and worked as a consultant. (Mr. Ziada deposition transcript, page 10, lines 9-20.) When Mr. Ziada began working at the company in 2011, Mr. Shaheen was the dispatcher. (Mr. Ziada deposition transcript, page 13, line 25 through page 14, line 24.) Mr. Ziada testified that he did not have any difficulty understanding the interpreter at the interview, but some wordings had to be repeated. (Mr. Ziada deposition transcript, page 20, line 24 through page 21, line 2.)

Mr. Ziada has made many donations to "help people," but never donated to a political candidate until he worked at Advantage Towing. He believed he had sufficient funds to make his donation. (Mr. Ziada deposition transcript, page 28, line 19 through page 29, line 17.) Mr. Ziada believed he made two donations to political candidates; one was for a man running for mayor who came to the tow yard to talk to employees. Most drivers used to donate to candidates. Mr. Ziada could not recall the name of the man running for mayor to whom he made a donation and asked if the attorneys could tell him the name to refresh his recollection. He also could not remember the amount of his contribution. (Mr. Ziada deposition transcript, page 30, line 10 through page 31, line 20.) When asked why he gave two donations, Mr. Ziada testified that the candidate was present, it was a small amount, and he saw others making donations. He did not believe he was reimbursed for making his donation. (Mr. Ziada deposition transcript, page 32, lines 5-19.) No one at the company asked him to donate or told him that they will return the money to him. (Mr. Ziada deposition transcript, page 46, lines 16-24.)

Mr. Ziada could not recall why respondents gave him a check on the same day as his contribution for the same amount as his contribution. When petitioner asked Mr. Ziada about his previous statement at his interview that Mr. Shaheen said they would reimburse everyone for their contributions, Mr. Ziada testified, "[t]he meaning with the word reimburse, I'm not positive." (Mr. Ziada deposition transcript, page 50, line 15 through page 52, line 6.) Mr. Ziada then gave a long explanation that he never gave the word reimburse "importance" and his use of the word could have other meanings. (Mr. Ziada deposition transcript, page 52, line 18 through page 54, line 7.) Mr. Ziada could not recall why he received the \$1,000 check from respondents, but did not believe it was a loan. (Mr. Ziada deposition transcript,

page 56, line 16 through page 57, line 5.) Mr. Ziada denied feeling threatened by Mr. Arekat or Ms. Davis. (Mr. Ziada deposition transcript, page 42, line 11 through page 43, line 15.)

72. Mr. Ziada testified at this administrative hearing that he was a legal counsel but not an attorney, in his native Palestine. There he made donations to political campaigns in the past, explaining that he donated to mosques. He explained that culturally his people give money, and he personally believes he should help people because some day he may be the one who needs help. In addition to working at Advantage Towing, he had income from other sources, including buying and selling cars. The payroll was not his only source of income. He was aware that other drivers took loans from the company. Once or twice Mr. Ziada took a loan; once to fix his car and another time to repair damage. He could not recall if he made a donation to the DeMaio campaign. He recalled that someone came to the office and asked employees to make donations; he did not recall if he made a donation or if he left work. He did not observe, but he heard that other employees gave donations. No one at the company told him he had to donate or asked him to do so. No one at the company told him he would be reimbursed for any donation he made. No one asked him to donate to the Dumanis campaign or reimbursed him for doing so. The only benefit he thought he would receive is good fortune in the future. He is married to Dina Ziada and he made the donation on his wife's behalf. He does not remember if he told her about the donation.

Mr. Ziada admitted that he uses English as his "language for work" and can use it for small things, but if it is something serious he believes he has a problem speaking in English. He was able to speak with Ms. Davis in English but was "shocked" when Ms. Davis came to his store to speak with him. He claimed that at that time, he did not understand the word "reimburse," but now he does. When he told Ms. Davis said he would be reimbursed for his donation he meant that he would receive benefits, good fortune, for making a donation. When he was interviewed, most of the time he understood the interpreter even though he had a different dialect. But he has since found out that there is a difference between the questions asked, the answers given, and "the things he wanted to say and how the meaning should be." He could not recall if he was ever given a transcription of his interviews.

When petitioner asked Mr. Ziada about the responses he gave at his interview, Mr. Ziada could not recall his answers; could not recall saying that he had been asked to write his campaign check; and could not recall being asked to write a check, as it is "very hard for me to remember it." Mr. Ziada wrote the check because they were encouraging people to write it and Mr. Shaheen told him he could donate up to \$1,000. Mr. Ziada retracted his interview statements regarding competition with other towing companies claiming that he "spoke on that subject but the meaning was not that." It is been a long time, but he believes he only borrowed money twice. Once to repair his car at the shop and maybe another time to pay for damage he caused. He explained that the contrary answer he gave at his interview may be because he was unsure if paying for his damage was a loan or not. When pressed on the issue, he could not recall exactly the number of loans he took.

73. At the administrative hearing, Dina Ziada, Mr. Ziada's wife, testified that she has never been employed by, and never worked for, respondents. She testified that she did

not write any of the checks at issue in this matter. Her husband told her about the campaign contribution after he wrote the check; she did not know if they had enough money in their joint account to cover the check. She had never contributed to a political candidate before. She explained that her husband is in charge of the finances; she had no idea what their monthly income was, and knew nothing of their finances. Her husband is the one who cashed the checks. He was not employed outside of Advantage Towing. She never got a loan and never borrowed money from respondents.

74. Evaluation: Mr. Ziada made a non-credible, non-persuasive witness. His claims of interpreter mistranslation were unpersuasive, as was his contention that the meaning of his answers previously given was not his intention. Mr. Ziada's legal education and experience made it all the more doubtful that his original statements were incorrect. Mr. Ziada appeared as little more than a witness who changed his testimony to support respondents, casting grave doubt on his credibility at this hearing. Ms. Ziada's testimony supported petitioner's contention that this campaign contribution was actually made by respondents.

Evidence Regarding Mohammed Atari

75. On February 11, 2016, Ms. Davis conducted a telephone interview of Mohammed Atari that was recorded with his permission. Ms. Davis's summary of that interview was introduced at hearing, but no transcript was offered. In light of the arguments raised about the other witness summaries, this one was reviewed with skepticism. Mr. Atari was employed at Advantage Towing from December 2010 to April 2014, performing marketing and advertising projects for respondents. Mr. Atari has made several campaign contributions in the past. He believed he made a minimal contribution to the DeMaio campaign and recalled Mr. DeMaio talking to employees about his vision for the city. Mr. Atari was excited to have a candidate visit the tow yard. Mr. Atari recalled that employees made contributions at the company and recalls those being logged by DeMaio's campaign staff. Mr. Atari could not recall if that took place during the DeMaio event or if he was confusing it with some other event.

Mr. Atari never heard respondents offer to reimburse employees for the contributions. Mr. Arekat would tell employees about candidate visits and that they would be collecting donations, but he was not sure if anyone ever offered to reimburse employees for contributions. When candidates came, most employees would walk away and not donate. Only a few would stick around for the candidate. Only four or five employees remained when Mr. DeMaio came to talk to them. Mr. Atari explained that people from Middle Eastern countries have "sort of a cultural obligation to donate if someone asks them for something." In his homeland, Jordan, "people get competitive about donations."

When asked if employees were told to bring their checkbooks for donations, Mr. Atari advised that employees were told that Mr. DeMaio would be coming later in the day seeking campaign contributions. People who were not interested in donating did not remain at the tow yard, but others remained and made donations. Mr. Atari stated that he may have

followed up with employees to remind them that Mr. DeMaio was coming, but never told them to bring their checkbook. Mr. Atari believed there would only be four or five people at the company who would be financially capable of making a contribution, even if they were interested in doing so. He himself contributed only \$20 or \$30. Mr. Atari denied ever seeing respondents give employees checks around the same time the employees were making campaign contributions. Mr. Atari only recalled a lot of employees “running away in order to avoid getting hit up for contribution;” “only four or five Arabic people were left to contribute” when Mr. DeMaio visited.

Mr. Atari advised that he knows every single detail about the company because he was one of the closest people to Mr. Arekat because he helped Mr. Arekat improve the business and got Mr. Arekat an account. Respondents routinely loaned money to employees that employees repaid when they were paid. Mr. Arekat kept track of the loans “on a sheet, like a log, in his left hand drawer.”

Mr. Atari said that Mr. Shaheen’s “story is ‘complicated.’” Sometimes Mr. Shaheen would be in the office and sometimes he would be driving with Mr. Iriqat. Mr. Shaheen was part of the management team and “was currently running Advantage Towing.” Mr. Atari did not think that Ms. Asad was a full-time employee, she would help out, but Mr. Atari was not sure if she worked at the company’s other location.

76. Mr. Atari testified at this administrative hearing. Mr. Atari currently works for an insurance company doing Internet marketing. He came to United States from Palestine in 2002. He performed marketing work for respondents and became close to Mr. Arekat. He was aware of the policy of making loans to employees and was allowed to write checks to himself. Ninety percent of respondents’ employees took loans. Mr. Atari may have made a small campaign contribution to Mr. DeMaio, \$20 or \$50, but could not recall. He was aware that employees made donations to the Fletcher campaign. Employees were advised that “donation people” were coming and they gathered to give a speech. No one at the company told him that he had to make a donation or that he would get reimbursed if he did. He never heard anyone say that to any other employees.

He did not recall the details, but knew donations were made to the Dumanis campaign. Mr. DeMaio and two women came to the tow yard soliciting donations. Mr. Atari helped set the meeting up. He called drivers telling them to stay at the office after their shifts if they wanted to hear a political speech and contribute money. A lot of the drivers left, a few stayed around. Mr. Atari testified that he “could not keep anyone there. A lot of the employees saw and knew that money [was being sought] so they walked away.”

77. Evaluation: Although Mr. Atari did not contradict his testimony between his interview and trial testimony, he presented as someone who knew much more than he was revealing, making him an unreliable witness.

Investigation Regarding History of Campaign Contributions

78. Ms. Davis reviewed campaign contribution documents from federal, state and local election records. Those records corroborated the witnesses' statements and petitioner's assertion that, but for the campaign contributions at issue in this litigation, Advantage Towing employees and their spouses never made campaign contributions before the ones at issue in this litigation and did not make any campaign contributions afterwards.

Analysis of Employees' and Spouses' Bank Records

79. Ms. Davis performed an extremely detailed and thorough analysis of the employees'/spouses' bank records during the time in question to determine if they had sufficient funds to cover their campaign contributions. She concluded that except for Yazid Iriqat, none of the employees had sufficient funds in their checking accounts to cover the campaign contributions. However, Ms. Davis obtained and reviewed only the bank records from the banks on which the campaign contributions were drawn. She did not subpoena any other bank records the employees may have had. In fact, no investigation was conducted to determine if the employees or their spouses had other bank accounts. Further, the only dates examined were the dates of the checks and when those checks were received by the campaigns. Ms. Davis conceded during cross-examination that the dates the checks were given to the campaigns, posted, or cleared could be, and some were, different dates, and those dates were not analyzed. She also acknowledged that it is not uncommon for people to "float" money in their accounts - write a check at a time when there is not sufficient funds knowing that there will be sufficient funds by the time the check is cashed - but she noted that this is a much harder practice to do now that most banking is online/electronic.

Given that petitioner had not subpoenaed or investigated whether other bank accounts existed, and had not analyzed the dates of writing, posting and cashing the checks, petitioner could not refute respondents' contention that the employees had other accounts and/or had sufficient funds by the time the campaign contribution checks cleared. While it was not established that the employees/spouses, other than Mr. Iriqat and now Ms. Asad, had other bank accounts, respondents did not have the burden of proof. As such, the evidence did not establish that the employees had insufficient funds to cover their campaign contributions.

Analysis of Employees' and Spouses' Payroll Records

80. Ms. Davis conducted a detailed analysis of Advantage Towing's payroll records. She concluded that the campaign contributions constituted a large proportion of the employees' monthly salaries, raising doubts that they would make such a large donation unless they knew they would be reimbursed. However, the only payroll records obtained were from Advantage Towing. No investigation was conducted to determine whether or not the employees or their spouses had other sources of income; in fact, Ms. Asad did have other employment as a local school district employee. Without knowing if there were other revenue sources, petitioner was unable to refute respondents' assertion that the employees and/or their spouses had other earnings such that these campaign contributions were not out

of proportion to the employees' monthly income. Even if petitioner had been able to demonstrate that fact, nothing prohibits employees from donating a large percentage, or even all, of their earnings to a campaign, as long as they do so within contribution limits.

81. The subpoenaed payroll records contained typed payroll checks paid bimonthly to employees. The checks respondents introduced at hearing that were purportedly loans to employees were handwritten.¹⁷ Both types of checks were drawn on the same Advantage Towing Union Bank account. In response to petitioner's subpoenas, respondents did not produce the ledgers purportedly documenting the employees' loan balances. Respondents did not produce any ledgers until the probable cause hearing, and then respondents produced only ledgers from recent years; they did not produce ledgers from the dates in question. While this made the claims of ledgers appear dubious, the witnesses who were interviewed by Ms. Davis advised her that employees received loans that were recorded in the office on "paper," in "a notebook," "like a ledger." Those witness statements supported respondents' claims that respondents made loans to employees that were recorded and tracked. However, for the reasons stated herein, the checks given to the campaigns at issue here were not loans.

82. Ms. Davis also concluded that the handwritten checks issued to employees were not loans because there was no documentation of any repayment of those loans. Her analysis determined that there was never any variation in the biweekly employee paychecks that would indicate money was deducted to repay the loans. However, the witnesses at hearing testified that the loans were repaid by (1) cashing their paychecks and giving respondents some of that cash or (2) working overtime hours for which they were not paid. Ms. Davis's evaluation of the payroll records did not factor either of those explanations into her analysis. While petitioner relied on the statements made during witness interviews that employee loans were deducted from employee paychecks, a review of the responses given at the interviews and the depositions indicated that the witnesses did reference cashing their checks and giving cash to respondents to repay the loans. Thus, those answers were not contradicted by the witnesses' testimony offered at hearing. Accordingly, there was no way to disprove respondents' assertions with the evidence introduced and petitioner was unable to refute that claim.

83. Of significance in the payroll records was the fact that from November 4, 2011, through October 4, 2013, biweekly payroll checks were made out to Manal Asad, drawn on the Advantage Towing's Union Bank account. However, as Mr. Shaheen, Ms. Asad, and Mr. Arekat testified at this hearing, Ms. Asad was not an Advantage Towing employee; her husband, Mr. Shaheen, was Mr. Arekat's employee during that time although

¹⁷ Although not alleged, and no findings or conclusions are drawn in this decision, there were concerns regarding the signatures on the checks. For example, the signature for Manal Asad on the May 31, 2009, check (Exhibit C, 0007) is different from her signature on the December 20, 2011, check (Exhibit E, 0021). Similarly, the signature for Husam Shuibat on the November 12, 2010, check (Exhibit D, 0008) is different from his signature on the December 7, 2010, check (Exhibit D, 0009).

his name was not on the payroll. Mr. Arekat and Mr. Shaheen admitted that the payroll checks were made out to Ms. Asad during the time when Mr. Shaheen had “immigration status” issues. Respondents now list Mr. Shaheen on the payroll records because he recently obtained his green card. The fact that all three witnesses were willing to participate in this deception and were non-plussed when admitting to it spoke volumes about their credibility and called their entire testimony into question. (See Judicial Council of California Civil Jury Instructions, CACI No. 107)

Respondents’ Ledgers

84. Mr. Arekat introduced several sheets of paper that he testified contained the names of employees who received loans, the amount of the loans given to each employee, and the amount of the loans repaid. The sheets were not dated. Mr. Arekat acknowledged that he first produced the sheets of paper at the probable cause hearing, and he did not produce them in response to the subpoenas issued for his business records. Mr. Arekat did not have ledgers from the dates in question because he throws the pieces of paper away when the loans are repaid. The sheets contained numerous names on them for varying amounts, with those amounts being paid off at varying times. As such, it was difficult to understand Mr. Arekat’s explanation since it was doubtful that everyone on the list paid off their loans at the same time so that the entire sheet of paper could be thrown away. Mr. Arekat did not explain why the sheets of paper were not produced in discovery. However, given the witnesses’ testimony about the “sheets of paper,” it was not established that these ledgers were fabricated.

Respondents’ Checks

85. Respondents introduced handwritten checks spanning from 2008 to 2015 that Mr. Arekat testified were loans given to employees. Of relevance to these proceedings, there were checks made out to Mr. Shuibat, Ms. Asad, Mr. Iriqat, Mr. Mikha, Mr. Raheem, Mr. Mohammed, Mr. Atari, and Mr. Shaheen. Some of the checks were to customers whose cars were damaged during towing. The amounts on the checks ranged from several hundred to several thousand dollars, totaling tens of thousands of dollars.

The memo portion on almost all of the checks was blank until 2013 when some of the checks began having the word: “loan” or “damage” written in that section. Mr. Arekat testified that he began recording that information in response to this investigation. However, even after that instruction, most checks still did not contain a notation in the memo portion.

Customer Surveys

86. Ms. Asad testified that she performs customer surveys, calling customers for feedback on the service they received. Numerous e-mails of the customer responses were introduced. The e-mails were sent from Ms. Asad to Mr. Shaheen and were dated between October 29, 2015, and February 9, 2016.

Other Witness Testimony at this Hearing

87. Ahmed Mekhemar, a certified court interpreter, certified to interpret and translate Arabic, testified about his translation performed at the witness interviews. He has been a certified court interpreter for over 10 years and has performed tens of thousands of translations. This was the first time he was ever hired by the commission to translate. Mr. Mekhemar addressed respondents' assertions that the witnesses did not understand the questions put forth at their respective interviews because Mr. Mekhemar spoke a different Arabic dialect than the dialect the witnesses spoke. Mr. Mekhemar explained that all persons who read or converse in Arabic, know "standard Arabic." While the different Arabic speaking countries do have different dialects, standard Arabic is universally understood by all Arab speakers. Mr. Mekhemar has never had an issue regarding miscommunication with any witness for whom he has translated. This case is the only time such an issue regarding his translations has ever been raised.

Mr. Mekhemar explained the process he goes through with witnesses for whom he translates, ensuring that they understand each other, understand each other's dialect, his use of standard Arabic in his translations, and the other methods he utilizes to ensure that he and the witness are communicating and that he is properly translating. Mr. Mekhemar had no problems translating for any of these witnesses other than one question with one witness, regarding whether the witness "bounced a check" or "landed a check," and Mr. Mekhemar clarified this answer with the witness, with petitioner's permission, to address any possible miscommunication.

Respondents offered no credible evidence to refute Mr. Mekhemar's testimony. The argument that the witnesses did not understand the questions posed of them because of a difference in dialects was not persuasive. Moreover, the only portions of the translations that the witnesses claimed to have misunderstood were those portions that were detrimental to respondents, making the claims of miscommunication all the more doubtful.

88. George Ponce, Sr., has been employed for the company for about 10 to 15 years, starting several years before Mr. Arekat bought the company. He drives a flatbed truck. He testified about the company's policy of giving loans to employees. He took loans and paid them back by cashing his paycheck and giving some of the cash back to respondents. He is not into politics and never made a campaign contribution. He was never told to write a check for a campaign or that he would be reimbursed if he did. He saw Mr. DeMaio come to the tow yard, but paid "no mind to him." Mr. Ponce did not fear respondents and had no concerns about not making a campaign contribution. He never heard respondents tell anyone to make campaign contributions or that they would be reimbursed for making contributions.

Mr. Ponce presented as a credible, no-nonsense, straightforward witness. However, his testimony did not refute the negative credibility findings made against other witnesses.

89. Petitioner called Daniel Vile, a detective for the San Diego Police Department assigned to the Joint Terrorism Task Force, as a rebuttal witness. Detective Vile spoke with Mr. Arekat as part of his work on the task force. Detective Vile denied having any discussions with the commission before interviewing Mr. Arekat.

90. Stacy Fulhorst, the commission's Executive Director, testified about her referral to the police department following a call she received from Ms. Asad's brother. The brother claimed that Ms. Asad was being subjected to witness intimidation because she had cooperated with the commission. Ms. Fulhorst explained to the brother the commission did not have jurisdiction and that she would refer the matter to the police department, which she did. She never asked anyone at the police department to interview any witnesses or conduct an investigation.

Arguments

91. Petitioner argued that it met its burden of proof and that respondent's violations warranted the maximum fine of \$5,000 being assessed for each violation, for a total fine of \$160,000.

92. Respondents argued that they had committed no campaign violations and that this case constituted overreaching by petitioner. Respondents asserted the fifteen checks were loans and requested that the accusation be dismissed.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. This proceeding is brought under Chapter 2 of the San Diego Municipal Code. Section 26.0436, subsection (c), provides that "the petitioner bears the burden of proof to establish, by a preponderance of the evidence, the existence of a violation of governmental ethics laws."¹⁸

2. "Preponderance of the evidence means evidence that has more convincing force than that opposed to it.' [Citations.] . . . The sole focus of the legal definition of 'preponderance' in the phrase 'preponderance of the evidence' is on the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314,324-325.) "If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it [citation]." (*People v. Mabini* (2001) 92 Cal.App.4th 654, 663.)

¹⁸ Section 26.0402 defines "governmental ethics laws" to include local laws governing campaign contribution limits and disclosures.

Applicable San Diego Municipal Codes

3. San Diego Municipal Code section 27.2901 provides that the purpose and intent of this division is:

to preserve an orderly political forum in which individuals may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in municipal elections; to prohibit contributions by organizations in order to develop a broader base of political efficacy within the community; to limit the use of loans and credit in the financing of municipal election campaigns; to provide full and fair enforcement of all the provisions of this division; to avoid the corruption or the appearance of corruption brought about when candidates for elective City office accept large campaign contributions; and to avoid the corruption or appearance of corruption brought about when large campaign contributions are made to support or oppose the recall of an individual holding elective City office.

4. San Diego Municipal Code section 27.2903 defines the terms contribution, city council, citywide general election, and citywide primary election. The term “mayor” is not defined. A “candidate” is defined as any individual who is listed on the ballot for “elective city office.” “Elective city office” is defined as “the office of the Mayor, Councilmember, or City Attorney of the City of San Diego.” “Election” is defined to include a citywide primary election or a citywide general election, with each of those being single and separate elections. “Person” is defined to include an individual, business, or corporation.

5. San Diego Municipal Code section 27.2930 requires each candidate and committee to file campaign statements in the time and manner prescribed by applicable state laws and regulations. The campaign disclosure forms must identify whether the donation was for a primary election or general election, identify the donors in alphabetical order, and disclose the cumulative amount of each donation.

6. San Diego Municipal Code section 27.2935 states that it is unlawful for an individual to make a contribution that would cause the total amount contributed by that individual to the candidate and the candidate’s controlled committee to exceed \$500 for any single election for a City Council district office, or to exceed \$1,000 for any single election for the office of Mayor or City Attorney.

7. San Diego Municipal Code section 27.2943 prohibits an individual from making a campaign contribution in the name of another person, either directly or indirectly.

8. San Diego Municipal Code section 27.2950, entitled “Prohibitions and Limits on Contributions from Organizations,” prohibits a business from making a contribution to a candidate or her controlled committee for a City candidate election.

9. San Diego Municipal Code section 27.2991 provides that anyone who violates these municipal code sections is guilty of a misdemeanor and is subject to administrative penalties.

Applicable San Diego Municipal Codes Regarding Penalty

10. San Diego Municipal Code section 26.0438, subdivision (f), outlines the factors the commission is to consider when determining penalty. Those factors include (1) the severity of the violation, (2) the presence or absence of any intent to conceal deceive or mislead, (3) whether the violation was deliberate, negligent or inadvertent, (4) whether the respondent demonstrate good faith by consulting the commission staff for written advice, (5) whether the violation was an isolated incident or part of a pattern, and whether the violator has a prior record of violations, (6) the existence of any mitigating information and (7) the degree to which the respondent cooperated with the commission staff by providing a full disclosure, remedying a violation or assisting with the investigation. Those factors were considered in this decision.

11. San Diego Municipal Code section 26.0440 provides that penalties ranging from \$0 to \$5,000 may be imposed for campaign violations, with the maximum fine allowed being \$5,000.

Evaluation

12. The checks that respondents asserted were loans were made to the employees on the same dates as the contributions and for the same amounts as the contributions. The checks were in sequential order. It was difficult to believe that all employees arrived at the same time needing loans for \$500 or \$1,000. Even if they had all been at the tow yard at the same time, a difficult concept to accept given the towing industry, it was difficult to fathom that employees needed a loan for the same amount of money on the same day. Even assuming that scenario, it was also difficult to fathom that they all wrote a campaign contribution for the exact amount of money they supposedly needed to borrow. And even assuming those facts were true, it was unclear how writing a campaign contribution and getting a loan for the exact same amount as the contribution would help the employees. If the employees needed the loans because of their economic circumstances, exchanging checks for the same amount was a “wash”; the employees would be no further ahead. It was this irrefutable fact, that writing a check for \$500 and getting a check for \$500, or writing a check for \$1,000 and getting a check for \$1,000, was an even exchange of money, that was the most compelling piece of evidence and established, beyond a shadow of a doubt, that these “loans” were nothing more than reimbursements to the employees for their campaign contributions.

Respondents asserted that it is part of their culture to make campaign contributions in the amount that others are making. They asserted that this explained why many of the employees wrote the same campaign contribution amount and why they knew little about the candidate to whom they were making a donation. While this may be true, and petitioner provided no evidence to refute that argument, it still made no sense that the campaign contributions and the loans were for the same amounts on the same days. A preponderance of the evidence supported petitioner's assertion that respondents reimbursed the employees for their campaign contributions.

Another interesting point was that much testimony was offered about Mr. DeMaio coming to the tow yard and soliciting contributions as being the reason the contributions were made. However, that testimony was not persuasive because the majority of the campaign contributions at issue here were made to the campaigns of Mr. Fletcher and Ms. Dumanis. There was only one contribution made to Mr. DeMaio's campaign at issue here. That fact, coupled with the fact that the employees did not know the identity of the candidates, the gender of Ms. Dumanis, one identified Mr. Fletcher as a road, had never before or since contributed to candidates, and could not offer a credible explanation for making their contributions, further supported petitioner's assertion that the "loans" were reimbursements to the employees for their campaign contributions. A preponderance of the evidence established that respondents violated the municipal code 32 times.

In assessing the appropriate penalty, given San Diego Municipal Code section 26.0438, subdivision (f), it is clear that the maximum penalty for each violation is warranted. Respondents engaged in serious violations of the campaign contribution limits, intended to deceive the commission; deliberately violated the municipal code; did not consult with commission staff and admitted to lying to the commission; and the contributions were part of a pattern and not an isolated incident. Further, no mitigating evidence was put forth and respondents did not cooperate with the commission, but instead provided contradictory testimony at this hearing. Given the extensive admissions by respondents and the witnesses that they lied during the investigation, as well as the fact that the defenses to the counts plead were not credible, the maximum penalty of \$5,000 per each municipal code violation is appropriate and shall be awarded, for a total penalty of \$160,000 (32 times \$5,000).

Cause was Established that Respondents Violated the San Diego Municipal Code

13. Respondents violated San Diego Municipal Code 27.2935 one time when the total contributions made by eight of respondents' employees to the Dumanis campaign exceeded the campaign contribution limit of \$500.

14. Respondents violated San Diego Municipal Code 27.2935 one time when the total contributions made by six of respondents' employees to the Fletcher campaign exceeded the campaign contribution limit of \$500.

15. Respondents violated San Diego Municipal Code 27.2943 fifteen times when campaign contributions to three campaigns were made in the names of the employees when, in fact, respondents had made the contributions.

16. Respondents violated San Diego Municipal Code 27.2950 fifteen times when campaign contributions were made, in fact, by Advantage Towing, Mr. Arekat's incorporated business.

RECOMMENDATIONS

1. It is recommended that the Ethics Commission order respondents Advantage Towing Company Inc., and Ayman Arekat to pay a monetary penalty to the General Fund of the City of San Diego of \$160,000. The Ethics Commission may permit respondents to make installments on a payment plan.

2. It is recommended that the Ethics Commission order respondents Advantage Towing Company Inc., and Ayman Arekat to cease and desist from violating the laws regulating to campaign contributions, specifically San Diego Municipal Code sections 27.2935, 27.2943 and 27.2950.

3. It is recommended that the Ethics Commission's Administrative Enforcement Order in this matter constitutes the Public Reprimand against respondents Advantage Towing Company Inc., and Ayman Arekat.

DATED: March 15, 2016



for MARY AGNES MATYSZEWSKI
Administrative Law Judge
Office of Administrative Hearings