



ANNUAL REPORT
2015

MISSION STATEMENT

To preserve public confidence in our City government through education, advice, and the prompt and fair enforcement of local governmental ethics laws.

DUTIES AND RESPONSIBILITIES

The City of San Diego Ethics Commission is responsible for monitoring, administering, and enforcing the City's governmental ethics laws; conducting audits and investigations; providing formal and informal advice to persons who fall within the jurisdiction of the Commission; conducting training sessions for the regulated community; and proposing governmental ethics law reforms.

Governmental ethics laws include the Ethics Ordinance, the Election Campaign Control Ordinance, and the Municipal Lobbying Ordinance. The Ethics Commission accepts complaints regarding alleged violations of laws within its jurisdiction, and protects individuals from retaliation for reporting violations. The Ethics Commission may impose fines up to \$5,000 for each violation of local governmental ethics laws.

Persons who fell within the jurisdiction of the Ethics Commission in 2015 include the following:

- Mayor, Councilmembers, City Attorney, and their respective staffs
- Unclassified managerial employees, including employees of City agencies who file Statements of Economic Interests
- City candidates, political committees, and campaign treasurers
- Members of boards and commissions who file Statements of Economic Interests
- Consultants who file Statements of Economic Interests
- Lobbyists, Lobbying Firms, Organization Lobbyists, and Expenditure Lobbyists

The Ethics Commission is an independent City department that does not report to the Mayor or City Council. Instead, Commission staff reports directly to the Ethics Commissioners, who are appointed by the Mayor and City Council to serve four-year terms.

2015 COMMISSIONERS AND STAFF

Chair

John O'Neill (left office October 15, 2015)

Vice Chair

Clyde Fuller

Commissioners

William Baber (assumed office October 15, 2015)

Deborah Cochran

Faye Detsky-Weil (left office October 15, 2015)

Alex Kreit

Andrew Poat (left office October 15, 2015)

David Potter (assumed office October 15, 2015)

Sid Voorakkara (assumed office October 15, 2015)

Greg Zinser

Staff

Stacey Fulhorst, Executive Director

Tracy Morales, Deputy Executive Director

Rosalba Gomez, Audit Program Manager

Stephen Ross, Education Program Manager

Lauri Davis, Investigative Program Manager

General Counsel

Christina Cameron, Esq.

Stutz Artiano Shinoff & Holtz

EDUCATION AND OUTREACH

The Commission continued to make education and outreach top priorities during 2015. Specifically, the Commission made the following efforts to educate City Officials regarding the various provisions of the City's Ethics Ordinance:

- The Commission staff conducted refresher training sessions on the Ethics Ordinance for the offices of Council Districts 1, 2, 3, 4, and 5.
- The staff also conducted four live training sessions on the Ethics Ordinance for unclassified management employees of the City in January, April, July, and October.
- In January, the staff conducted a training for unclassified staff concerning the annual disclosure of economic interests due on or before April 1.
- The staff also conducted a live training for Civic San Diego in January, with special emphasis on issues related to the jurisdiction of this agency.
- In February, the staff conducted a live training for the Planning Commission with emphasis on land use issues related to the jurisdiction of this commission.
- In December, the staff conducted a live training for the Salary Setting Commission concerning the disclosure of economic interests.
- Over 200 City Officials (primarily volunteer members of City boards and commissions) obtained training on the City's Ethics Ordinance via the Commission's on-line program.
- The staff began transitioning the on-line training program, as well as tracking and registration for the live training program, to the City's Success Factors learning management system. This ongoing project involves considerable time and effort to establish and configure customized training modules to meet the Commission's needs; the transition should be complete in early 2016.
- The staff responded to approximately 250 requests for informal advice from City Officials regarding compliance with the City's Ethics Ordinance.

- The staff monitored changes to state ethics laws that impacted corresponding local laws, and notified City Officials about these changes.
- The staff issued one new Fact Sheet and updated nine previously-issued Fact Sheets concerning various provisions of the City’s ethics laws.

In addition, the Commission undertook the following efforts to educate City candidates and their staffs, as well as political committees, on the City’s campaign laws:

- In July and September, the Commission staff conducted training sessions for City candidates and their staffs on the City’s campaign laws.
- The staff responded to approximately 90 requests for informal assistance from City candidates and their staffs, as well as various political committees participating in City elections.
- The staff updated the Candidate and Committee Manuals for the 2016 election cycle.
- The staff also prepared a new manual for candidates who raise less than \$1,000 and who are therefore subject to limited aspects of the City’s campaign laws.
- The Commission produced a “webinar” for local candidates and treasurers to supplement the webinar developed by the FPPC.
- The staff issued four new Fact Sheets and updated seven previously-issued Fact Sheets concerning various provisions of the City’s campaign laws.

During 2015, the Commission made the following efforts to educate lobbying firms and organizations on the City’s lobbying laws:

- The staff responded to approximately 90 requests for informal advice and assistance concerning the City’s lobbying laws.
- The staff updated two previously-issued Fact Sheets concerning various provisions of the City’s lobbying laws.

Finally, the Commission's education and outreach efforts during 2015 included the following:

- The Commission continued to disseminate information to the public, the regulated community, City Officials, and the media, via three "interested persons" e-mail lists: one for campaign finance issues, one for ethics issues, and one for lobbying issues.
- The Commission frequently updated its website (www.sandiego.gov/ethics) to provide the public with timely information regarding Commission meetings, legislative proposals, educational efforts, and enforcement activities.
- The Executive Director made presentations to groups inside and outside the City concerning the role of the Ethics Commission and the laws within its jurisdiction.

LEGISLATIVE PROPOSALS

During 2015, the Commission considered proposed amendments to the laws governing professional expense committees in the City's Election Campaign Control Ordinance. In response to requests for clarification, the Commission ultimately decided to recommend the following amendments concerning the "disclosure of pending matters" form that contributors to professional expense committees must submit:

- replace the phrase "pending matter" with the phrase "municipal decision" and incorporate the definition of "municipal decision" from the City's lobbying laws;
- add new language to clarify that a decision is "pending" before the official or candidate if it is "reasonably foreseeable" (the same phrase used in local and state conflict of interest laws) that it will be acted upon by that official or candidate or by the governmental body on which he or she sits; and
- add new language to clarify that only individuals who have a financial interest in a municipal decision need to identify the decision on the disclosure form, and model the criteria for "financial interests" on comparable criteria used in local and state conflict of interest laws.

The amendments proposed by the Commission also include the following updates that are housekeeping in nature or required to conform with recently-adopted changes to state law:

- add recordkeeping requirements applicable to campaign advertisements;
- update the minimum advertising disclosure requirements ("paid for by") for committees making independent expenditures to support/oppose local candidates or measures from a 12-point typeface to a bold 14-point sans serif typeface; and
- update the qualification threshold for recipient committees from \$1,000 to \$2,000, such that candidates and entities receiving less than \$2,000 in contributions will not be required to file campaign disclosure statements as a "committee."

While the Commission was considering the proposed amendments discussed above concerning professional expense committees, it also decided to recommend corresponding changes to the Municipal Lobbying Ordinance to require lobbying firms and organizations to disclose fundraising activities and contributions for professional expense committees. In addition, the Commission recommended changes to the lobbying laws to require lobbying entities to disclose the contributions made by their sponsored political committees.

The package of amendments to campaign and lobbying laws was considered and approved by the Charter Review Committee in July, and is scheduled to be considered by the full City Council in January of 2016.

In addition to the foregoing, the Commission proposed changes to the City's campaign laws to require more timely disclosure of contributions and expenditures associated with referendums and initiative petitions in response to a request from Councilmember Gloria and the Charter Review Committee. The amendments, which require 24-hour disclosures during the signature-gathering phase, were approved by the City Council and went into effect on November 27, 2015.

Finally, during 2015, the Commission recommended an amendment to the City Charter to solidify the existence of the Commission. Although the Charter currently recognizes certain powers of the Commission, it also notes that the Commission is established by ordinance adopted by the City Council. Solidifying the Commission's existence in the Charter would ensure that the Commission cannot be eliminated by Council action, without a public vote. In May and November, the Charter Review Committee expressed support for this amendment and forwarded it to the full City Council for consideration as part of a package of proposed amendments that will ultimately be submitted to the voters for approval.

AUDIT PROGRAM

During 2015, the Ethics Commission's Audit Program Manager completed the audits of the remaining committees from the 2012 election cycle (selected at the September 2013 audit drawing):

- Bob Filner for Mayor 2012
- Environmental Health and Justice Campaign Fund (working to elect Bob Filner)
- San Diegans in Support of Bob Filner for Mayor 2012
- Christine Kehoe for Mayor 2012
- Bryan Pease for City Council 2012
- A Better San Diego Issues Committee, a Sponsored Committee of the San Diego and Imperial Counties Labor Council, AFL-CIO
- Citizens for Patient Rights, sponsored by the Patient Care Association, an association of medicinal cannabis patients and patient organizations
- San Diegans for Great Schools with major funding provided by CAC advisory Services LLC & Dr. Irwin Jacobs
- San Diego Consumers for Choice, sponsored by Wal-Mart Stores, Inc.
- Taxpayers to Preserve Community Jobs, No on Measure A, sponsored by labor and management organizations

On September 10, 2015, the Ethics Commission conducted a random drawing of committees from the 2013-2014 election cycles and selected the following candidate committees for audit:

FINANCIAL ACTIVITY BETWEEN \$10,000 AND \$49,000:

- Mike Aguirre for Mayor 2013
- Environmental Health and Justice Campaign Fund Working to Elect David Alvarez for Mayor 2014
- Reelect David Alvarez 2014 for City Council District 8
- San Diegans in Support of David Alvarez for Mayor - 2013

- Nuestro Pueblo Unido Para el Progreso in support of Blanca Lopez-Brown for City Council 2013
- Brian “Barry” Pollard for City Council 2013
- San Diegans for Strong Neighborhoods in Support of Bruce Williams for City Council 2013

FINANCIAL ACTIVITY BETWEEN \$50,000 AND \$99,999:

- Mitz Lee for City Council

FINANCIAL ACTIVITY OF \$100,000 OR MORE:

- David Alvarez for Mayor 2013
- Working Families for a Better San Diego to Support David Alvarez for Mayor 2013, Sponsored by the San Diego & Imperial Counties Labor Council, AFL-CIO
- Working Together for Neighborhood Fairness, in opposition to David Alvarez for Mayor 2014, Sponsored by the Lincoln Club of San Diego County
- Cate for Council 2014
- Citizens for Fairness & Jobs Supporting Chris Cate for Council 2014
- Neighborhood Coalition Supporting Chris Cate for Council 2014 sponsored by the Lincoln Club of San Diego County
- Faulconer for Mayor 2013/2014
- San Diegans to Protect Jobs & the Economy, Supporting Kevin Faulconer for Mayor 2013
- Fletcher for Mayor 2013
- Neighborhoods For Nathan Fletcher - A committee to Support Nathan Fletcher for Mayor
- Restoring Trust in San Diego - A Committee to Support Nathan Fletcher for Mayor 2013
- Lorie Zapf for City Council 2014
- Neighbors United for a Better City Government Supporting Lorie Zapf for Council 2014 sponsored by the Lincoln Club of San Diego County

- San Diegans for Honesty and Integrity, a Committee to Defeat Pay-to-Play Candidate Lorie Zapf for Council 2014, Sponsored by Employee Organizations

In addition, the following ballot measure committees were chosen at the random drawing:

FINANCIAL ACTIVITY BETWEEN \$50,000 AND \$99,999:

- Yes on B and C, Barrio Logan Community Plan, Sponsored By Social Justice Organizations

FINANCIAL ACTIVITY OF \$100,000 OR MORE:

- Hard Working San Diegans for Earned Sick Days and Minimum Wage, A Coalition of Community Non-Profits, Employee Organizations, Local Businesses and Faith Based Organizations
- Protect Our Jobs, No on B and C, Port of SD Ship Repair Assn., Major Funding By NASSCO and BAE Systems
- San Diego Small Business Coalition sponsored by the San Diego Regional Chamber of Commerce
- Stop the Jobs Killing Tax, a Coalition of Jobs Creators, Economic Development, Business and Real Estate Organizations Concerned about the San Diego Economy

During 2015, the Audit Program Manager completed the audits of three candidate committees from the 2013-2014 election cycles:

- Cate for Council 2014
- Neighborhood Coalition Supporting Chris Cate for Council 2014 sponsored by the Lincoln Club of San Diego County
- Faulconer for Mayor 2013/2014

ENFORCEMENT – STATISTICS

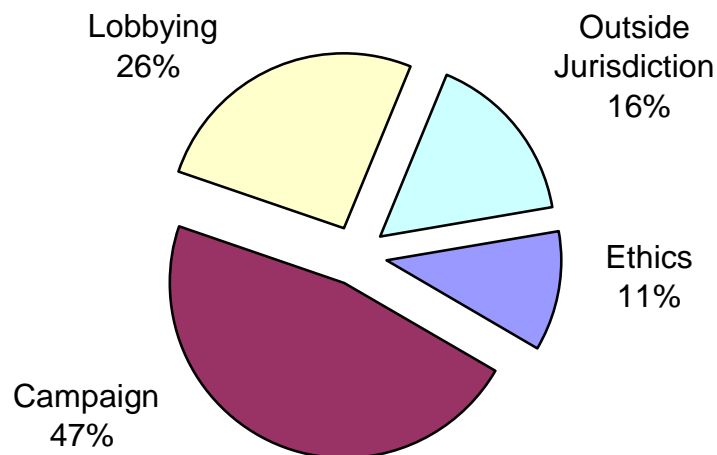
Number of Complaints

During 2015, the Ethics Commission processed a total of 19 complaints. These complaints were submitted by way of written complaint forms, letters, memos, e-mails, and telephone calls. They were presented by third parties and other governmental agencies, as well as Commission staff. One of the complainants was anonymous.

Types of Complaints

Complaints processed by the Ethics Commission in 2015 concern alleged violations of law as follows:

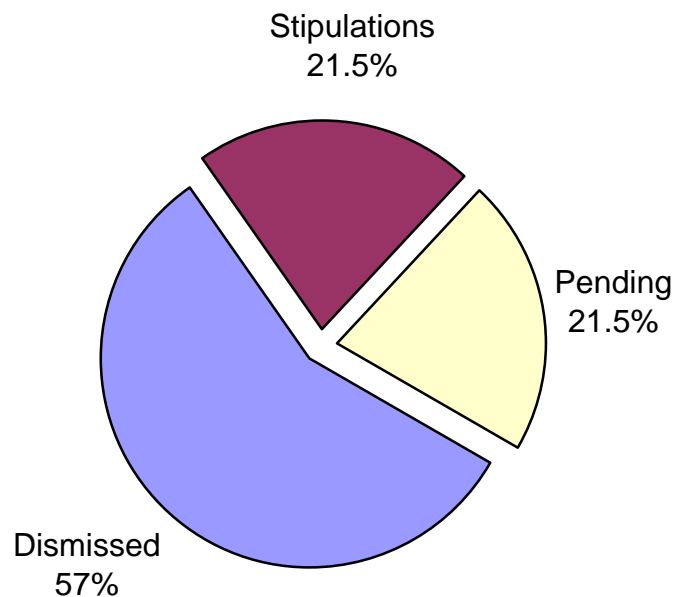
- 9 complaints alleged a violation of the Election Campaign Control Ordinance;
- 5 complaints alleged a violation of the Lobbying Ordinance;
- 2 complaints alleged a violation of the Ethics Ordinance; and
- 3 complaints alleged a violation outside of the Commission’s jurisdiction.



Investigations

Out of the 19 complaints processed by the Commission during 2015, 12 were approved for investigation. These 12 cases, together with 16 cases approved for investigation but not resolved in previous years, resulted in the following disposition during 2015:

- 16 matters were ultimately dismissed by the Commission after considering the results of staff investigations;
- 6 matters resulted in 7 stipulated settlement agreements (1 case involved 2 stipulations); and
- 6 matters are currently pending.



ENFORCEMENT – STIPULATIONS

During 2015, the Commission entered into seven stipulated settlements. Four of these stipulations concerned violations of the City's campaign laws:

- Nuestro Pueblo Unido Para El Progreso in Support of Blanca Lopez-Brown for City Council 2013 Sponsored by the Lincoln Club of San Diego County, Alan English, and T. J. Zane paid a fine of \$1,500 for failing to disclose on campaign statements that T.J. Zane was the committee's principal officer, and for failing to disclose payments to Jim Bieber for consulting services.
- Jim Bieber paid a fine of \$1,500 for arranging a situation in which a straw vendor submitted invoices to the Nuestro Pueblo Unido committee referenced above, which effectively concealed the work that Bieber performed for the committee.
- Dwayne Crenshaw, a candidate for City Council District 4 in the 2013 special election, agreed to pay a \$5,000 fine in connection with his failure to disclose 21 contributions totaling \$4,500 and 28 expenditures totaling \$18,890, as well as his failure to maintain campaign records.
- Nathan Fletcher, Scott & Cronin LLP, and Fernando Aguerre paid a \$3,000 fine in connection with Fletcher's acceptance of contributions totaling \$4,000 from Aguerre, an amount in excess of the \$1,000 contribution limit in effect at the time.

Three of the stipulations approved by the Commission during the past year involved the City's lobbying laws:

- Seltzer Caplan McMahon Vitek agreed to pay a fine of \$1,000 for failing to disclose the following on its quarterly reports: all of the campaign contributions of its owners, officers and lobbyists to City candidates; and specific information regarding the municipal decisions it attempted to influence on behalf of its clients.
- Crosbie Gliner Schiffman Southard & Swanson LLP paid a \$1,000 fine for failing to disclose all of the campaign contributions of its owners, officers, and lobbyists to City candidates on its quarterly disclosure reports.

- Republic Services paid a \$500 fine for failing to disclose all of the campaign contributions of its owners, officers, and lobbyists to City candidates on its quarterly disclosure reports.

During 2015, the Commission levied a total of \$13,500 in administrative fines by way of the stipulations discussed above. All fines are paid to the City of San Diego's General Fund and are not credited to the Ethics Commission's operating budget.

ENFORCEMENT – HEARINGS

In August of 2015, the Commission conducted a Probable Cause Hearing in connection with allegations of campaign money laundering by Respondents Advantage Towing Company and Ayman Arekat. Following the hearing, the Commissioners determined that probable cause exists as to 32 counts of violating the City's campaign laws specifically relating to:

- the failure to report the true source of campaign contributions in violation of San Diego Municipal Code section 27.2943;
- the making of campaign contributions from an organization to a City candidate in violation of San Diego Municipal Code section 27.2950; and
- the making of contributions in excess of the \$500 contribution limit in effect at the time, in violation of San Diego Municipal Code section 27.2935.

In connection with this determination, the Commission set the case for an Administrative Hearing before an Administrative Law Judge [ALJ] employed by the California Office of Administrative Hearings [OAH]. The OAH subsequently issued a Notice of Assigned Hearing Dates indicating that the matter will be heard from February 22 through 25, 2016. Following the Administrative Hearing, the ALJ will issue a proposed decision that will be considered by the Commission.