

Ethics Commission

December 4, 2023

Mr. Noli Zosa
Noli Zosa for Council 2020
6987 Camino Pacheco
San Diego, CA 92111

SENT VIA-EMAIL

Re: Noli Zosa for Council 2020 (ID # 1415989)

Dear Mr. Zosa:

The Ethics Commission audit of the above-referenced committee is now concluded, and the Final Audit Report is enclosed. This report was delivered to the Ethics Commission at its regularly-scheduled meeting held on November 30, 2023. Although the report reflects one material finding, the Commission does not believe that the finding warrants an additional administrative remedy. In summary, the Commission determined that education was more appropriate than enforcement in this situation. As a result, the Commission voted to accept the report and take no further action.

Sincerely,

[REDACTED]

Rosalba Gomez
Audit Program Manager

Enclosure

cc: Ms. Nancy R. Haley, Treasurer
374 No. Coast Highway 101, Suite 2
Encinitas, CA 92024

FINAL AUDIT REPORT

November 15, 2023

Mr. Noli Zosa
Noli Zosa for Council 2020
6987 Camino Pacheco
San Diego, CA 92111

Treasurer: Nancy R. Haley
374 No. Coast Highway 101, Suite 2
Encinitas, CA 92024

SAN DIEGO ETHICS COMMISSION AUDIT REPORT: *Noli Zosa for Council 2020*

I. Introduction

This Audit Report contains information pertaining to the audit of the committee, Noli Zosa for Council 2020¹, Identification Number 1415989 (“the Committee”) for the period from February 19, 2019, through April 8, 2021. The Committee was selected for audit by a designee of the City Clerk in a random drawing conducted at a public meeting of the Ethics Commission held on September 9, 2021. The audit was conducted to determine whether the Committee materially complied with the requirements and prohibitions imposed by the City of San Diego’s Election Campaign Control Ordinance (San Diego Municipal Code Chapter 2, Article 7, Division 29). The Election Campaign Control Ordinance (ECCO) has been amended on several occasions; all Municipal Code references in this report relate to the provisions of ECCO that were in effect at the time of the actions described herein.

During the period covered by the audit, the Committee reported total contributions of \$479,363.70 (inclusive of \$6,826.86 in non-monetary contributions) and total expenditures of \$472,529.34. Total cash contributions relative to total expenditures resulted in a \$7.50 differential that was reconciled by the Committee’s miscellaneous increase to cash. **The audit revealed one material finding: the committee failed to include an “ad paid for by” disclosure in one campaign advertisement in violation of San Diego Municipal Code section 27.2970.**

¹ Noli Zosa filed a Statement of Organization for a “Noli Zosa Legal Defense Fund” on November 30, 2020. However, the Noli Zosa Legal Defense Fund did not collect or expend any funds. The Noli Zosa Legal Defense Fund filed its Statement of Termination on January 29, 2021, noting its termination date as November 24, 2020.

II. Committee Information

On February 19, 2019, the Committee filed a Statement of Organization with the San Diego City Clerk indicating that it qualified as a committee. The Committee was formed to support the election of Noli Zosa for Council District 7 in the March 3, 2020, primary election and November 3, 2020, general election. On April 16, 2021, the Committee filed a Statement of Termination indicating that its filing obligations were completed on April 8, 2021. The Committee's treasurer was Nancy R. Haley of Haley & Co.

III. Audit Authority

The Commission is mandated by San Diego Municipal Code section 26.0414 to audit campaign statements and other relevant documents to determine whether campaign committees comply with applicable requirements and prohibitions imposed by local law.

IV. Audit Scope and Procedures

This audit was performed in accordance with generally accepted auditing standards. The audit involved a thorough review of the Committee's records for the time period covered by the audit. This review was conducted to determine:

1. Compliance with all disclosure requirements, pertaining to contributions, expenditures, accrued expenditures, and loans, including itemization when required;
2. Compliance with applicable filing deadlines;
3. Compliance with restrictions on contributions, loans and expenditures;
4. Accuracy of total reported receipts, disbursements and cash balances as compared to bank records; and
5. Compliance with all record-keeping requirements.

V. Summary of Applicable Law

Section 27.2970 – Disclosures on Campaign Advertisements

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

.....

California Government Code Section 84504.4 – Disclosure; Radio and Television Ads; Political Parties and Candidates

(a) A radio or television advertisement that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 subject to the following requirements:

(1) In a radio advertisement, the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement.

....

California Government Code Section 84502 – Committee Name Disclosure

(a)(1) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words “Ad paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101.

....

California Code of Regulation 18450.6 – Disclosure on Advertisements in Languages Other than English

(a) If an advertisement, as defined in Section 84501, appears primarily in a language other than English, whether written or spoken, the advertisement disclosure required by Article 5 of Chapter 4 must appear in that same language.

....

VI. Material Findings

Section 27.2970: Campaign Advertisements

SDMC section 27.2970 incorporates the California campaign advertisement disclosure requirements. California Government Code section 84504.4 states that candidates who pay for radio advertisements are required to include an “ad paid for by” disclosure at the beginning or end of the ad. In addition, California Code of Regulations section 18450.6 states that mandatory disclosures in advertisements presented in a language other than English must appear in the same language.

The audit review found that the Committee paid TNT Radio San Diego for a Vietnamese radio campaign advertisement. The radio advertisement ran for two months on terrestrial radio and on TNT's online stream. The Committee provided an audio file copy of the disseminated Vietnamese radio advertisement. A City of San Diego employee who is fluent in Vietnamese assisted the Auditor by listening to the submitted radio advertisement audio file and stated that the radio ad did not include the required "ad paid for by" disclosure.

Committee representatives asserted that they had been careful about placing the requisite disclosures on all of their advertisements. The Committee stated that the translation process unintentionally resulted in the requisite disclosure being omitted in the radio advertisement. The Auditor determined that the radio campaign advertisement did not comply with the disclosure laws, in violation of section 27.2970.

At the post audit conference held on October 25, 2023, the Committee representatives asserted that its disclosure omission was unintentional and that its overall actions evidence its intent to substantially comply with applicable regulations.

VII. Conclusion

Through the examination of the Committee's records and campaign disclosure statements, the Auditor verified that the Committee timely disclosed all contributions received and all expenditures made, and that the Committee maintained the necessary documentation regarding contributions and expenditures. **However, the audit revealed the following material finding: the committee failed to include an "ad paid for by" disclosure in one campaign advertisement, in violation of San Diego Municipal Code section 27.2970.**

[REDACTED]

Rosalba Gomez
Audit Program Manager

Date

[REDACTED]

Sharon Spivak
Executive Director

Date