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BEFORE THE CITY OF SAN DIEGO
ETHICS COMMISSION

In re the Matter of:) Ethics Commission Case No.: No. 2013-15
) OAH Case No. 2015090579
)
ADVANTAGE TOWING COMPANY INC.,) **ADMINISTRATIVE ENFORCEMENT**
and AYMAN AREKAT,) **ORDER**
)
Respondents.) [SDMC § 26.0439]
)
) **Date:** April 14, 2016
) **Time:** 5:00 p.m.
) **Location:** 202 C Street, 12th Floor
) San Diego, CA 92101
)

Pursuant to San Diego Municipal Code (“SDMC”) section 26.0435, the Ethics Commission appointed an Administrative Law Judge to serve as the Presiding Authority in Ethics Commission Case No. 2013-15. The Administrative Hearing took place February 22, 23, and 24, 2016, during which time Administrative Law Judge Mary Agnes Matyszewski (the “ALJ”) heard testimony and reviewed evidence relating to the allegations in the Final Administrative Complaint (“Administrative Complaint”) brought by Petitioner against Respondents. In accordance with SDMC section 26.0437, the ALJ issued a Proposed Administrative Enforcement Order (“Proposed Order”) dated March 15, 2016. The Proposed Order was received by the Ethics Commission’s Executive Director on March 17, 2016, and emailed to Respondents on March 24, 2016. Thereafter, in accordance with SDMC section 26.0437 (e), on April 7, 2016, Petitioner and Respondents each submitted a brief in response to

1 the Proposed Order. In accordance with SDMC sections 26.0437 and 26.0438, the Ethics
2 Commission deliberated in open session on April 14, 2016.

3 The Administrative Complaint alleges that Respondents Advantage Towing Company,
4 Inc. (“Advantage Towing”) and Ayman Arekat (hereinafter collectively referred to as
5 “Respondents”) violated the Election Campaign Control Ordinance (“ECCO”) in connection
6 with contributions made to three candidates in the 2012 Mayoral election. After deliberating
7 pursuant to SDMC section 26.0438 with regard to each violation alleged by Petitioner in the
8 Administrative Complaint, and based on findings of fact, conclusions of law, and the entire
9 record of the proceedings, the Ethics Commission found by the concurring votes of at least four
10 (4) Commissioners as set forth in the Ethics Commission Resolution dated April 14, 2016, that
11 Petitioner established by a preponderance of the evidence that Respondents violated ECCO as
12 set forth below.

13 Further, for each finding of a violation of ECCO, the Ethics Commission voted on the
14 penalty to be imposed in consideration of all of the relevant circumstances, including, but not
15 limited to: (1) the severity of the violation; (2) the presence or absence of any intention to
16 conceal, deceive, or mislead; (3) whether the violation was deliberate, negligent, or inadvertent;
17 (4) whether the Respondents demonstrated good faith by consulting the Commission staff for
18 written advice that does not constitute a complete defense; (5) whether the violation was an
19 isolated incident or part of a pattern, and whether the violator has a prior record of violations of
20 governmental ethics laws; (6) the existence of any mitigating information; and (7) the degree to
21 which the Respondents cooperated with Commission staff by providing full disclosure,
22 remedying a violation, or assisting with the investigation. SDMC §26.0438(f). Based on the
23 concurring votes of at least five (5) Commissioners as set forth in the Ethics Commission
24 Resolution dated April 14, 2016, the Ethics Commission imposed on Respondents the penalties
25 set forth below for their violations of ECCO.

26 **Counts 1 through 15 - Violations of SDMC section 27.2943**

27 SDMC section 27.2943 prohibits any person from making a contribution in the name
28 of another person, a practice commonly known as “campaign money laundering.”

1 Respondents violated SDMC section 27.2943 by making six (6) campaign
2 contributions of \$500 each in December of 2011 to the Fletcher for Mayor 2012 committee
3 (“Fletcher Mayoral Committee”) in the names of the following Advantage Towing employees
4 while concealing Advantage Towing as the true source of the contributions:

<u>Date</u>	<u>Contributor</u>	<u>Amount</u>
12/28/11	Seror Mikha	\$500
12/28/11	Mohammed Mohammed	\$500
12/28/11	Zyad Raheem	\$500
12/28/11	Husam Shuibat	\$500
12/29/11	Yazid Iriqat	\$500
12/29/11	Shaheen Shaheen	\$500

12 Respondents also violated SDMC section 27.2943 by making eight (8) campaign
13 contributions of \$500 each between January and March of 2012 in the names of the following
14 Advantage employees and their spouses to the Bonnie Dumanis for Mayor 2012 committee
15 (“Dumanis Mayoral Committee”), while concealing Advantage Towing as the true source of
16 the contributions:

<u>Date</u>	<u>Contributor</u>	<u>Amount</u>
01/19/12	Manal Asad	\$500
01/19/12	Wasan Khudhair	\$500
01/19/12	Mohammed Mohammed	\$500
01/19/12	Shaheen Shaheen	\$500
01/19/12	Dina Ziada	\$500
01/19/12	Mohammed Ziada	\$500
03/17/12	Yazid Iriqat	\$500
03/17/12	Husam Shuibat	\$500

26 Respondents also violated SDMC section 27.2943 by making one (1) campaign
27 contribution of \$500 in October of 2012 in the name of the following Advantage Towing
28

1 employee to the Carl DeMaio for Mayor 2012 committee (“DeMaio Mayoral Committee”),
2 while concealing Advantage as the true source of the contribution:

<u>Date</u>	<u>Contributor</u>	<u>Amount</u>
10/05/12	Manal Asad	\$500

5 **Counts 16 through 30 - Violations of SDMC section 27.2950**

6 SDMC section 27.2950 prohibits contributions from organizations (other than political
7 parties).

8 Respondents violated SDMC section 27.2950 by making fifteen (15) campaign
9 contributions from an organization (Advantage Towing) to a City candidate, as described
10 above in Counts 1 through 15.

11 **Counts 31 and 32 - Violation of SDMC section 27.2935**

12 SDMC section 27.2935 imposes a limit on the amount that any individual may
13 contribute for any single election for the office for Mayor.

14 Respondents violated SDMC section 27.2935 by making six (6) contributions totaling
15 \$3,000 to the Fletcher Mayoral Committee, an amount far in excess of the \$500 contribution
16 limit in effect at the time.

17 Respondents also violated SDMC section 27.2935 by making eight (8) contributions
18 totaling \$4,000 to the Dumanis Mayoral Committee, an amount far in excess of the \$500
19 contribution limit in effect at the time.

20 Based on the findings set forth above and pursuant to SDMC section 26.0439, the Ethics
21 Commission orders that:

22 (1) Respondents pay a monetary penalty in the amount of \$128,000 (equivalent to
23 \$4,000 per violation) to the General Fund of the City of San Diego in accordance
24 with the provisions of SDMC sections 26.0439(b)(3) and 26.0440 within 12
25 months of the date this Order is served on Respondents;

26 (2) Respondents cease and desist from violating the laws regulating to campaign
27 contributions, specifically San Diego Municipal Code sections 27.2935, 27.2943
28 and 27.2950; and

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(3) This Administrative Enforcement Order constitutes a public reprimand against Respondents.

IT IS SO ORDERED.

Dated: April 20, 2016

CITY OF SAN DIEGO ETHICS COMMISSION

By [REDACTED]

Clyde Fuller, Chair