



THE CITY OF SAN DIEGO

November 13, 2017

Mr. Mike Aguirre
Mike Aguirre for Mayor 2013
3367 Albatross Street
San Diego, CA 92103

Re: Ethics Commission Audit of the Mike Aguirre for Mayor 2013 (ID# 1360503) and Ethics Commission Case No. 2017-25

Dear Mr. Aguirre:

The Ethics Commission audit of the Mike Aguirre for Mayor 2013 (ID# 1360503) is now concluded, and the Final Audit Report is enclosed. The report reflecting material findings was delivered to and accepted by the Ethics Commission at its meeting on November 9, 2017. As you know, the Commission conducted an investigation related to the findings noted in the report, and approved a stipulation in the above-referenced matter at its meeting on November 9, 2017.

Sincerely,

[REDACTED]

Rosalba Gomez
Audit Program Manager

Enclosure

cc: Ms. Kimberly Rugama, Treasurer
560 Almonte Place
Chula Vista, CA 91910

Ethics Commission

1010 Second Avenue, Suite 1530 • San Diego, CA 92101
Tel (619) 533-3476 Fax (619) 533-3448





THE CITY OF SAN DIEGO

FINAL AUDIT REPORT

November 3, 2017

Mr. Mike Aguirre
Mike Aguirre for Mayor 2013
3367 Albatross Street
San Diego, CA 92103

Treasurer: Ms. Kimberly Rugama
560 Almonte Place
Chula Vista, CA 91910

SAN DIEGO ETHICS COMMISSION AUDIT REPORT: *Mike Aguirre for Mayor 2013*

I. Introduction

This Audit Report contains information pertaining to the audit of the committee, Mike Aguirre for Mayor 2013, Identification Number 1360503 (“the Committee”) for the period from September 9, 2013, through January 31, 2014. 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 10, 2015. 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).

During the period covered by the audit, the Committee reported total contributions of \$12,123.69 and total expenditures of \$12,123.69. **The audit revealed eight material findings:**

- **the committee made five cash expenditures of \$100 or more in violation of San Diego Municipal Code section 27.2917;**
- **the committee failed to maintain records reflecting two expenditures in violation of San Diego Municipal Code section 27.2925;**
- **the committee failed to timely file a campaign statement to disclose one late contribution in violation of San Diego Municipal Code section 27.2930;**

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- **the committee failed to disclose occupation and employer information for eleven contributions in violation of San Diego Municipal Code section 27.2930.**

II. Committee Information

On September 26, 2013, 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 Michael Aguirre for Mayor in the November 19, 2013, special election. On January 31, 2014, the Committee filed a Statement of Termination indicating that its filing obligations were completed on January 31, 2014. The Committee's treasurer was Kimberly Rugama.

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

San Diego Municipal Code Section 27.2917 – Lawful Use of Campaign Funds by a Committee

Uses of campaign funds held by any committee formed in accordance with this division shall be governed by title 9 of the California Government Code and title 2, division 6 of the California Code of Regulations. It is unlawful to use campaign funds in any manner that would violate these provisions of California law.

California Code Section 84300 – Cash Expenditures

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- (b) No expenditure of one hundred dollars (\$100) or more shall be made in cash.

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Section 27.2925 - Accounting

- (a) In addition to any other requirement of this division, every candidate or committee that accepts contributions for a City election shall maintain records in accordance with the requirements of title 2, section 18401 of the California Code of Regulations.
- (b) The records required by section 27.2925(a) and shall be kept by the candidate or committee treasurer for a period of four years following the date that the campaign statement to which they relate is filed.
- (c) Each candidate and committee shall deliver, on demand, to any public officer having authority to enforce this division, a written authorization permitting the officer to have access to all records pertaining to the campaign contribution checking account.
- (d) Each candidate and committee shall, on demand, make available to any public officer having authority to enforce this division all records required by this division to be maintained by the candidate or committee.

California Code of Regulations Section 18401– Required Recordkeeping

- (a) Maintenance of Documents

A candidate, treasurer, and elected officer has a duty to maintain detailed accounts, records, bills, and receipts as necessary to prepare campaign statements and comply with the provisions of Chapter 4 (commencing with Section 84100) of the Act.

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Section 27.2930 - Base Level of Campaign Statements and Disclosures

Each candidate and committee shall file campaign statements in the time and manner required by California Government Code sections 81000 et seq. and title 2 of the California Code of Regulations with the following additional requirements:

Government Code Section 84203 – Late Contributions

- (a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report his or her full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her

full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form of a loan. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

- (b) A late contribution shall be reported by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. If a late contribution is required to be reported to the Secretary of State, the report to the Secretary of State shall be by online or electronic transmission only. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

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Government Code section 84211 – Contents of Campaign Statements

Each campaign statement required by this article shall contain all of the following:

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- (f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars (\$100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:
- (1) His or her full name.
 - (2) His or her street address.
 - (3) His or her occupation.
 - (4) The name of his or her employer, or if self-employed, the name of the business.

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VI. Material Findings

Section 27.2917 - Cash Expenditures

SDMC section 27.2917 and California Code Section 84300(b) prohibit committees from making cash expenditures of \$100 or more. The purpose of the prohibition is to ensure the proper handling of cash transactions and avoid inaccurate disclosures and improper practices.

The audit found that the Committee withdrew \$3,543.43 in cash from its checking account and used these funds to pay the bank to issue five cashier's checks to the following vendors:

Cashier's Checks			
	Vendor	Date	Amount
1	Lourdes Epley	12/27/13	\$ 1,170.00
2	Diego & Sons	12/27/13	\$ 1,222.00
3	Nancee Lewis Photography	12/27/13	\$ 150.00
4	Jimmie Eleanor Sober	12/27/13	\$ 770.00
5	Michael Aguirre	12/27/13	\$ 162.31
			\$ 3,474.31

According to the Committee's representative, the cashier's checks were used to close out the bank account (rather than waiting for the vendors to deposit checks drawn off the account). In addition, the Committee accounted for the spending of the withdrawn cash by providing copies of the vendor invoices as well as the purchased cashier's checks.

Section 27.2925 – Failure to Maintain Records

Government Code Section 84104 provides that it is the duty of each candidate, treasurer and elected officer to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements, and to retain the documents for a period of four years following the date the appropriate campaign statement is filed. Section 84104 is incorporated into ECCO at SDMC section 27.2925. The audit revealed that the Committee paid for two separate newspaper advertisements with the following vendors: La Prensa San Diego and Asian Journal. The Committee failed to maintain a sample copy of each advertisement, making it difficult to determine whether the newspaper advertisements included the "paid for by" disclosure required by ECCO that serves to inform the voters about the source of funding for a specific campaign advertisement.

Section 27.2930 – Failure to File Campaign Statement

ECCO requires committees to file campaign statements in the time and manner required by California Government Code section 81000, et seq. and the regulations adopted by the Fair Political Practices Commission. California Government Code section 84203 requires committees that receive or make a late contribution of \$1,000 or more to file a Form 497 within 24 hours. The audit review found that the candidate made a personal contribution of \$1,500 on September 23, 2013, but the Committee failed to file a Form 497 to disclose this contribution. The contribution was disclosed, however, on the pre-election Form 460 filed on October 10, 2013. The Committee representative stated that the failure to file a Form 497 for the \$1,500 contribution was an unintentional error.

Section 27.2930 – Failure to Disclose Contributor Information

Government Code section 84211(f) requires committees that receive cumulative contributions from a single contributor of \$100 or more to disclose the contributor's full name, address, occupation, and employer on the relevant campaign statement. The audit review found that the Committee failed to disclose the occupation and employer information for eleven contributions, thereby depriving the

public of important information concerning the candidate's financial supporters:

	Date Received	Last Name	First Name	Amount
1	9/14/13	Coats	Robert	\$ 100.00
2	9/14/13	Burton	Kathryn S.	\$ 100.00
3	9/18/13	Sober	Eleanor	\$ 100.00
4	9/21/13	Magana	Ana	\$ 100.00
5	9/21/13	Ransom	Richard	\$ 100.00
6	9/28/13	Rosentraub	Mark	\$ 150.00
7	9/30/13	Peterson	Brian	\$ 250.00
8	10/30/13	Blavatt	Kathleen	\$ 100.00
9	10/30/13	Moldt	Vera	\$ 150.00
10	11/18/13	Coats	Robert	\$ 50.00
11	12/16/13	Burton	Kathryn S.	\$ 50.00
				<u>\$ 1,250.00</u>

VII. Conclusion

The audit revealed the following material findings:

- the committee made five cash expenditures of \$100 or more in violation of San Diego Municipal Code section 27.2917;
- the committee failed to maintain records reflecting two expenditures in violation of San Diego Municipal Code section 27.2925;
- the committee failed to timely file a campaign statement disclose one late contribution in violation of San Diego Municipal Code section 27.2930;
- the committee failed to disclose occupation and employer information for eleven contributions in violation of San Diego Municipal Code section 27.2930.

[REDACTED]

Rosalba Gomez
Audit Program Manager

Date

[REDACTED]

Stacey Fulhorst
Executive Director

Date