

December 9, 2022

City Attorney Mara Elliott
Mara Elliott for City Attorney 2020
1200 Third Avenue, Suite 1620
San Diego, CA 92101

SENT VIA-EMAIL

Re: Mara Elliott for City Attorney 2020 (ID # 1415205)

Dear City Attorney Elliott:

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 December 8, 2022.

Sincerely,

[REDACTED]

Rosalba Gomez
Audit Program Manager

Enclosure

cc: Ms. Denise Lewis, Treasurer
River City Business Services
5445 Madison Avenue
Sacramento, CA 95841

FINAL AUDIT REPORT

November 30, 2022

City Attorney Mara Elliott
Mara Elliott for City Attorney 2020
1200 Third Avenue, Suite 1620
San Diego, CA 92101

Treasurer: Denise Lewis
5445 Madison Avenue
Sacramento, CA 95841

SAN DIEGO ETHICS COMMISSION AUDIT REPORT: *Mara Elliott for City Attorney 2020*

I. Introduction

This Audit Report contains information pertaining to the audit of the committee, Mara Elliott for City Attorney 2020, Identification Number 1415205 (“the Candidate Committee”) for the period from January 15, 2019, through August 19, 2021. The Candidate 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.

In addition, our Audit Manual states that if a committee controlled by a candidate is selected for audit, then any other City of San Diego committees controlled by the same candidate during the audit period shall be included in the audit. Therefore, we also audited the committee, Mara Elliott Legal Defense Fund, Identification Number 1431354 (“the LDF Committee”) for the period from September 16, 2020, through August 19, 2021.¹ The audit was conducted to determine whether the two Committees 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 Candidate Committee reported total contributions of \$553,003.35 (inclusive of \$3,767.14 in non-monetary contributions) and total expenditures of

¹ We note that the LDF Committee, unlike the Candidate Committee, remains open. The audit of the LDF Committee covers its activity for the period of time that the Candidate Committee was open.

\$593,472.95. Total cash contributions relative to total expenditures resulted in a \$44,236.74 differential that was reconciled by the Candidate Committee's miscellaneous increase to cash. During the period covered by the audit, the LDF Committee reported total contributions of \$38,500.00 (inclusive of \$36,000.00 in candidate loans) and total expenditures of \$34,051.93. **The audit revealed one material finding: the LDF Committee failed to timely file two Disclosure of Pending Matters forms in violation of San Diego Municipal Code section 27.2967.**

II. Committee Information

On January 28, 2019, the Candidate Committee filed a Statement of Organization with the San Diego City Clerk indicating that it qualified as a committee. The Candidate Committee was formed to support the election of Mara W. Elliott for City Attorney in the March 3, 2020, primary election and November 3, 2020, general election. On August 30, 2021, the Candidate Committee filed a Statement of Termination indicating that its filing obligations were completed on August 19, 2021.

On January 25, 2021, the LDF Committee filed a Statement of Organization with the San Diego City Clerk indicating that it qualified as a committee. The LDF Committee was formed for legal proceedings associated with ballot designation and defamation cases. The LDF Committee has not terminated.

The Candidate Committee and LDF Committee had the same treasurer, Denise Lewis of River City Business Services.

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 Committees' 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 27.2965 – Professional Expense Funds

- (a) Every elected *City Official* and every *candidate* for *elective City office* shall be permitted to establish and maintain one *professional expense committee* and one professional expense checking account for the purpose of soliciting, accepting, and spending professional expense funds.

....

- (e) Every individual making a *contribution* to a *professional expense committee* shall accompany such *contribution* with a signed disclosure form indicating whether the individual has a financial interest in any *municipal decisions* pending before the applicable *City Official* or *candidate*. If the individual has such a financial interest, he or she shall identify the *municipal decision* and describe the nature of the interest on the disclosure form.

....

- (4) Within 10 calendar days of the filing deadline applicable to the campaign statement required by section 29.2967, the *professional expense committee* shall file with the City Clerk a copy of each disclosure form received during the reporting period pursuant to this subsection.

....

Section 27.2967 – Disclosures by Professional Expense Committee

....

- (b) The *professional expense committee* of any *City Official* or *candidate* who is not a *candidate* in an upcoming *City election* shall disclose its professional expense fund activity on campaign statements filed quarterly, as follows:

(1) No later than April 30 for the period of January 1 through March 31.

(2) No later than July 31 for the period of April 1 through June 30.

(3) No later than October 31 for the period of July 1 through September 30.

(4) No later than January 31 for the period of October 1 through December 31.

....

VI. Material Findings

Section 27.2965: Failure to Timely File LDF Financial Disclosure Statements

Section 27.2965 states that city officials and candidates for elective City office may open a Legal Defense Fund (LDF) committee, which is technically called a “professional expense committee” in the Municipal Code. Section 27.2965 states that any contribution to a LDF must be accompanied by a signed Disclosure of Pending Matters form (DPM form). The DPM form discloses whether a contributor has a financial interest in any municipal decisions pending before the City Official to whose LDF the contribution is made. Section 27.2967 requires LDF committees to file quarterly campaign statements disclosing the committee’s financial activity. In addition, Section 27.2965(e)(4) requires LDF committees to file the associated DPM forms within 10 calendar days of each quarterly campaign statement deadline.

As an elected City official, City Attorney Elliott created an LDF to help defray the professional fees and costs she incurred for the defense of one or more civil proceedings. On February 1, 2021, the LDF committee was required to file a campaign statement covering the period from October 18, 2020, through December 31, 2020. The requisite DPM forms for any LDF contributions received during the same period were due to be filed by February 11, 2021.

The LDF Committee filed two contributor DPM forms 77 days late. The two DPM forms did not disclose any financial interests in any matter pending before City Attorney Elliott. The following table lists the filing details:

Contributor	Amount	Receipt Date	DPM Due Date	DPM Filing Date
Inga Lintvedt	\$ 250.00	12/17/20	02/11/21	04/29/21
Jeffrey Forrest	\$ 600.00	12/17/20	02/11/21	04/29/21

The LDF Committee failed to timely file the two contributor DPM forms detailed above.

(It is relevant to note that the LDF Committee previously accepted responsibility for its failure to comply with the City’s LDF filing requirements; see stipulation Case No. 2021-07, A copy of the Stipulation may be found on the Ethics Commission website.)

VII. Conclusion

Through the examination of the Committees’ records and campaign disclosure statements, the Auditor verified that the Committees timely disclosed all contributions received and all expenditures made, and that the Committees maintained all necessary documentation regarding contributions and expenditures in accordance with disclosure and record-keeping provisions of ECCO, with the following exception: **the LDF Committee failed to timely file two Disclosure of Pending Matters forms, in violation of San Diego Municipal Code section 27.2967.**

[REDACTED]

Rosalba Gomez
Audit Program Manager

Date

[REDACTED]

Sharon Spivak
Executive Director

Date