



THE CITY OF SAN DIEGO

December 9, 2016

VIA REGULAR & ELECTRONIC MAIL

Ms. Diane Takvorian  
Environmental Health and Justice Campaign Fund Working to Elect David Alvarez for  
Mayor 2014  
2727 Hoover Ave., Suite 202  
National City, CA 91950

Re: Environmental Health and Justice Campaign Fund Working to Elect David  
Alvarez for Mayor 2014 (ID # 1352009)

Dear Ms. Takvorian:

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, 2016. 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: Cary Davidson, Treasurer  
Reed & Davidson LLP  
515 South Figueroa Street, Ste. 1110  
Los Angeles, CA 90071

**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 18, 2016

Ms. Diane Takvorian  
Environmental Health and Justice Campaign Fund Working to Elect David Alvarez for Mayor  
2014  
2727 Hoover Avenue, Suite 202  
National City, CA 91950

Treasurer: Cary Davidson  
Reed & Davidson LLP  
515 South Figueroa Street, Ste. 1110  
Los Angeles, CA 90071

### SAN DIEGO ETHICS COMMISSION AUDIT REPORT:

*Environmental Health and Justice Campaign Fund Working to Elect David Alvarez for Mayor 2014*

#### I. Introduction

This Audit Report contains information pertaining to the audit of the committee, Environmental Health and Justice Campaign Fund Working to Elect David Alvarez for Mayor 2014, Identification Number 1352009 ("the Committee") for the period from October 10, 2013, through July 18, 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). The Election Campaign Control Ordinance (ECCO) was amended on January 1, 2015. This Committee operated under the previous ECCO, and therefore all Code references in this report relate to the provisions of ECCO that were in effect prior to January 1, 2015.

During the period covered by the audit, the Committee reported total contributions of \$35,920.00 and total expenditures of \$43,530.00. Total cash contributions relative to total expenditures resulted in a \$7,610.00 differential that was reconciled by the redesignated Committee's beginning cash balance. **The audit revealed one material finding: the committee failed to comply with the late independent expenditure disclosure requirements in violation of San Diego Municipal Code section 27.2930.**

#### Ethics Commission

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## **II. Committee Information**

On October 10, 2013, the Committee filed a Statement of Organization with the San Diego City Clerk indicating that it was redesignated to support the election of David Alvarez for Mayor in the November 19, 2013, special election and February 11, 2014, special runoff election. On August 1, 2014, the Committee filed a Statement of Termination indicating that its filing obligations were completed on July 18, 2014. The Committee's treasurer was Cary Davison of Reed & Davidson, LLP.

## **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 27.2930 – 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:

### **California Government Code Section 82036.5 - Late Independent Expenditure**

“Late independent expenditure” means any independent expenditure that totals in the aggregate one thousand dollars (\$1,000) or more and is made for or against any specific candidate or measure involved in an election before the date of the election but after the closing date of the last campaign

statement required to be filed prior to the election by a candidate or committee participating in the election.

### **California Government Code Section 82036.5 - Late Independent Expenditure Reports**

- (a) A committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made. If a late independent expenditure 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 independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

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## **VI. Material Findings**

### **San Diego Municipal Code Section 27.2930 – Failure to File Late Independent Expenditure Reports**

California Government Code Section 82036.5 requires that independent expenditures totaling \$1,000 or more made during the “late period” must be disclosed on a Form 496 within 24 hours. The Committee made independent expenditures totaling \$31,140.00 to support the election of David Alvarez in the November 19, 2013, special mayoral election and February 11, 2014, special runoff election. The majority of expenditures were payments made in connection with the Committee’s canvassing activities. According to documentation provided by the Committee, the payments were made to Environmental Health Coalition employees as well as independent contractors specifically hired for the canvassing efforts.

The Committee treasurer/attorney relied on an inapplicable FPPC Regulation when preparing and filing the campaign statements. FPPC Regulation 18423(c) contains a special rule for in-kind contributions made by employers that donate their employees’ time in support of a candidate. In those situations, a payroll date may be used instead of the date that services are provided. Although most of Regulation 18423 applies to both contributions and expenditures, the payroll date rule applies solely to contributions.

The Committee’s misplaced reliance on Regulation 18423(c) resulted in the late reporting of \$17,219.00 in canvassing efforts; of this amount, \$5,329.00 was disclosed one month before the election, and the remainder was not disclosed until well after the election. Although the Committee failed to timely file Forms 496 disclosing some of its canvassing activities, it’s relevant to note that all the disseminated walk pieces included the requisite disclosure indicating that they were paid by the Committee.

At the post-audit conference held on November 15, 2016, the Committee asserted that it strove to fully comply with all campaign disclosure requirements and never had any intent to omit important

information.

## 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 all necessary documentation regarding contributions and expenditures in accordance with disclosure and record-keeping provisions of ECCO with the following exceptions: **the committee failed to comply with the late independent expenditures disclosure requirements in violation of San Diego Municipal Code section 27.2930.**

[REDACTED]

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Rosalba Gomez  
Audit Program Manager

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Date

[REDACTED]

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Stacey Fulhorst  
Executive Director

\_\_\_\_\_  
Date