



THE CITY OF SAN DIEGO

May 13, 2016

Mr. Nathan Fletcher  
Fletcher for Mayor 2013  
4079 Governor Drive, #176  
San Diego, CA 92122

Re: Fletcher for Mayor 2013 (ID# 1359831)

Dear Mr. Fletcher:

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 May 12, 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: Nancy R. Haley, Treasurer  
Scott & Cronin, LLP  
330 Encinitas Blvd., Suite 101  
Encinitas, CA 92024

**Ethics Commission**

1010 Second Avenue, Suite 1530 • San Diego, CA 92101  
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THE CITY OF SAN DIEGO

## FINAL AUDIT REPORT

March 9, 2016

Mr. Nathan Fletcher  
Fletcher for Mayor 2013  
4079 Governor Drive, #176  
San Diego, CA 92122

Treasurer: Nancy R. Haley  
Scott & Cronin, LLP  
330 Encinitas Blvd., Suite 101  
Encinitas, CA 92024

### SAN DIEGO ETHICS COMMISSION AUDIT REPORT: *Fletcher for Mayor 2013*

#### I. Introduction

This Audit Report contains information pertaining to the audit of the committee, Fletcher for Mayor 2013, Identification Number 1359831 (“the Committee”) for the period from August 20, 2013, through December 31, 2013. 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 \$917,712.88 (inclusive of \$2,426.25 in non-monetary contributions) and total expenditures of \$915,830.07. Total cash contributions relative to total expenditures resulted in a \$543.44 differential that was reconciled by the Committee’s miscellaneous increase to cash. **The audit revealed one material finding: the committee failed to include a “paid for by” disclosure in a mass telephone communication in violation of San Diego Municipal Code section 27.2971.**

#### II. Committee Information

On August 28, 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

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Nathan Fletcher for Mayor in the November 19, 2013, special mayoral election. On February 14, 2014, the Committee filed a Statement of Termination indicating that its filing obligations were completed on December 31, 2013. The Committee's treasurer was Nancy R. Haley of Scott & Cronin, 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**

#### **Section 27.2971 – Telephone Communications**

- (a) It is unlawful for any candidate or committee to engage or hire others to engage in mass telephone communications unless the communications include a statement that the communications are “paid for by,” or are otherwise being made “on behalf of” immediately followed by the name of each candidate or committee that is paying for any of the resources used for the communications or that is otherwise authorizing the communication. For purposes of this subsection, “resources” include the purchase of a contact list, the development of a script, overhead expenses, and telephone charges. The type of disclosure required by this section shall be determined as follows:
- (1) A call is “paid for by” a candidate or committee when the candidate or committee pays directly for the call or pays another person to make the call on its behalf.

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## VI. Material Findings

### Section 27.2971: Failure to Include “Paid for By” Disclosure in Mass Telephone Communication

SDMC Section 27.2971 requires committees that pay for mass telephone communications to include the words “paid for by” immediately followed by the name of the committee that paid for it. The audit revealed that the Committee paid a vendor to conduct a telephone survey of 800 households in August of 2013 that referred to the mayoral candidacy of Nathan Fletcher that did not include the requisite “paid for by” disclosure.

At the post-audit conference held on March 8, 2016, the Committee 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 all necessary documentation regarding contributions and expenditures in accordance with disclosure and record-keeping provisions of ECCO. **However, the audit revealed the following material findings: the committee failed to include a “paid for by” disclosure in a mass telephone communication in violation of San Diego Municipal Code section 27.2971.**

[REDACTED]

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Rosalba Gomez  
Audit Program Manager

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Date

[REDACTED]

\_\_\_\_\_  
Stacey Fulhorst  
Executive Director

\_\_\_\_\_  
Date