

September 13, 2019

Ms. Andrea Guerrero
San Diegans for Full Voter Participation, Yes on K and L
4443 30th Street, Suite 100
San Diego, CA 92116

Re: San Diegans for Full Voter Participation, Yes on K and L, Sponsored by
Community and Voter Rights Organization (ID # 1389015)

Dear Ms. Guerrero:

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 September 12, 2019.

Sincerely,

[REDACTED]

Rosalba Gomez
Audit Program Manager

Enclosure

cc: Nancy R. Haley, Treasurer
Haley & Company, LLC
374 No. Coast Highway 101, Suite 2
Encinitas, CA 92024

FINAL AUDIT REPORT

August 26, 2019

Ms. Andrea Guerrero
San Diegans for Full Voter Participation, Yes on K and L
4443 30th Street, Suite 100
San Diego, CA 92116

Treasurer: Nancy R. Haley
374 No. Coast Highway 101, Suite 2
Encinitas, CA 92024

SAN DIEGO ETHICS COMMISSION AUDIT REPORT:

San Diegans for Full Voter Participation, Yes on K and L, Sponsored by Community and Voter Rights Organization

I. Introduction

This Audit Report contains information pertaining to the audit of the committee, San Diegans for Full Voter Participation, Yes on K and L, Sponsored by Community and Voter Rights Organization, Identification Number 1389015 (“the Committee”) for the period from August 19, 2016, through December 31, 2016. 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 14, 2017. 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) 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 Committee reported total contributions of \$1,035,494.06 (inclusive of \$9,393.06 in non-monetary contributions) and total expenditures of \$1,026,101.00. **The audit revealed five material findings: the committee failed to properly identify major donors in five campaign advertisements in violation of San Diego Municipal Code section 27.2975.**

II. Committee Information

On August 8, 2016, 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 Proposition K

(Charter Amendment Requiring Run-Off Election for the Offices of Mayor, City Attorney and Councilmember) and Proposition L (Charter Amendment Requiring Citizens' Initiative and Referendum Measures to be Placed on November General Election Ballots, Unless the Council Decides to Submit Them to Voters Earlier) in the November 8, 2016, general election. On January 12, 2017, the Committee filed a Statement of Termination indicating that its filing obligations were completed on December 31, 2016. The Committee's treasurer was Nancy R. Haley of Haley & Company, LLC.

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 27.2975 – Major Funding of Advertisements Supporting or Opposing Candidates and Ballot Measures

- (a) In addition to all other applicable disclosure requirements set forth in this Division, it is unlawful for any primarily formed recipient committee to pay for an advertisement supporting or opposing a City candidate or ballot measure unless each person who has cumulatively contributed \$10,000 or more to the committee is identified in the advertisement as providing major funding to the committee:
 - (1) If there are more than two donors of \$10,000 or more, the committee is only required to disclose the highest and second highest in that order.
 - (2) In the event that two or more donors of identical amounts meet the threshold for the top two contributors, the order of disclosure shall be made beginning with the most recent contributor of that amount.

....

- (4) The disclosure shall reflect information that is accurate as of the date the committee places the order to purchase the advertisement.

....

VI. Material Findings

Section 27.2975 - Major Donor Disclosure

SDMC 27.2975 requires committees that pay for an advertisement supporting or opposing a City measure to include a disclosure statement on the advertisement identifying the top two donors who have contributed \$10,000 or more. A donor's contribution is deemed "received" when any agent of the committee obtains possession or control of the payment. The disclosure statement must reflect information that is accurate as of the date the committee places the order to purchase the advertisement.

On September 22, 2016, the Committee ordered and disseminated 3,000 campaign/yard signs that included a disclosure statement identifying Lawrence Hess as the only major donor of \$10,000 or more. Although the Committee had received a \$75,000 contribution from the San Diego County Building Trades Council Family Housing Corporation dba National City Park Apartments on September 19, 2016, the campaign/yard signs did not identify this contributor as the second major donor.

During the month of October 2016, the Committee ordered and distributed 249,000 campaign mailers, one television advertisement, and 15,000 door hangers. Each of these campaign advertisements included a disclosure statement identifying Lawrence Hess and Protect Neighborhood Services Now as the Committee's top two donors of \$10,000 or more. None of these three advertisements included the full committee name of the second major donor, which is Protect Neighborhood Services Now, Sponsored by Municipal Employees Association.

On October 14, 2016, the Committee conducted robo-calls to 23,000 households that included a disclosure statement identifying Open Society Policy and Lawrence Hess as its top two donors of \$10,000 or more, despite the fact that United Food & Commercial Workers Union Local 135 had displaced Hess as one of the top two donors of \$10,000 or more when it made a \$100,000 contribution on October 13, 2016.

(It is relevant to note that the Committee previously accepted responsibility for failing to comply with the major donor disclosure requirements; see stipulation in Case No. 2016-41.)

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 the necessary documentation regarding contributions and expenditures. **However, the audit revealed the following material findings: the committee failed to properly identify major donors in five campaign advertisements in violation of San Diego Municipal Code section 27.2975.**

[REDACTED]

Rosalba Gomez
Audit Program Manager

Date

[REDACTED]

Stacey Fulhorst
Executive Director

Date