



THE CITY OF SAN DIEGO

May 15, 2015

Mr. Scott Strawbridge
Taxpayers to Preserve Community Jobs, No on Measure A
3737 Camino Del Rio South, No. 202
San Diego, CA 92108

Re: Taxpayers to Preserve Community Jobs, No on Measure A, sponsored by labor
and management organizations committee (ID # 1344551)

Dear Mr. Strawbridge:

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 14, 2015. Although the report reflects two material findings, the Commission does not believe that the findings warrant additional administrative remedies. 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
Ethics Commission Auditor

Enclosure

cc: Richard R. Rios
Olson, Hagel, & Fishburn LLP
555 Capitol Mall, Suite 1425
Sacramento, CA 95814-4602

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

May 6, 2015

Mr. Scott Strawbridge
Taxpayers to Preserve Community Jobs, No on Measure A,
sponsored by labor and management organizations
3737 Camino Del Rio South, No. 202
San Diego, CA 92108

Treasurer: Scott Strawbridge
3737 Camino Del Rio South, No. 202
San Diego, CA 92108

SAN DIEGO ETHICS COMMISSION AUDIT REPORT:

*Taxpayers to Preserve Community Jobs, No on Measure A,
sponsored by labor and management organizations*

I. Introduction

This Audit Report contains information pertaining to the audit of the committee, Taxpayers to Preserve Community Jobs, No on Measure A, sponsored by labor and management organizations, Identification Number 1344551 ("the Committee") for the period from February 14, 2012, through October 8, 2012. 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 12, 2013. 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, 2013. 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, 2013.

During the period covered by the audit, the Committee reported total contributions of \$1,185,943.87 (inclusive of \$5,943.87 in non-monetary contributions) and total expenditures of \$1,180,016.15. Total cash contributions relative to total expenditures resulted in a \$16.15 differential that was reconciled by the Committee's miscellaneous increase to cash. **The audit revealed two material findings:**

- **the committee failed to comply with all aspects of the mass campaign literature "paid for by" disclosure requirements in San Diego Municipal Code section 27.2970; and**
- **the committee failed to comply with the mass telephone communications "paid for by" disclosure in San Diego Municipal Code section 27.2971.**

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II. Committee Information

On February 14, 2012, the Committee filed a Statement of Organization with the San Diego City Clerk indicating that it qualified as a committee. The Committee was sponsored by the "San Diego Building and Construction Trades Council" and the "California Construction Industry Labor-Management Cooperative Trust" (which are both comprised of construction contracting firms and trade unions). The Committee was formed to oppose Proposition A (Prohibits the City from Requiring Project Labor Agreements on City Construction Projects) in the June 5, 2012, primary election. On October 23, 2012, the Committee filed a Statement of Termination indicating that its filing obligations were completed on October 8, 2012. The Committee's treasurer was Scott Strawbridge.

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 27.2903 - Definitions

Mass campaign literature means more than 200 substantially similar pieces of campaign literature, including, but not limited to, mailers, flyers, pamphlets, door hangers, walking cards, posters, yard signs, business cards, campaign buttons 10 inches in diameter or larger, or bumper stickers 60 square inches or larger, which are distributed within a single calendar month, regardless of whether distributed through the mail, by campaign workers, or any other means.

....

Mass telephone communications means live or recorded telephone calls that are substantially similar in nature to 500 or more individuals or households for the purpose of (a) supporting or opposing a clearly identified candidate or a clearly identified measure; or (b) conducting a poll that mentions or refers to a clearly identified candidate or a clearly identified measure.

San Diego Municipal Code Section 27.2970 – Mass Campaign Literature

- (a) It is unlawful for any candidate or committee to pay for mass campaign literature for the purpose of supporting or opposing a City candidate or City measure unless each item of mass campaign literature includes the words “paid for by” immediately followed by the name, street address, and city of that candidate or committee in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size.
- (b) In addition to the requirements set forth in subsection(a) it is unlawful for any candidate or committee to send mass campaign literature through the mail for the purpose of supporting or opposing a City candidate or City measure unless the name, street address, and city of the candidate or committee are shown on the outside of the each item of mass campaign literature, and on at least one of the inserts included within each piece of mail, in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size.

....

San Diego Municipal Code 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,” “authorized 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 it 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.

....

VI. Material Findings

Section 27.2970: Failure to Comply with all Aspects of the “Paid for By” Disclosure on Mass Campaign Literature

SDMC Section 27.2970 requires committees that pay for mass campaign literature to include the words “paid for by” immediately followed by the name, street address, and city of the committee that paid for it. The “paid for by” disclosure must be made in a typeface is easily legible, contrasts with the background and is no less than 12 points in size in order to ensure that information regarding the person paying for the campaign advertisement is clearly visible and readily apparent to recipients. The Committee commissioned and distributed eight pieces of mass campaign literature in the form of mailers that each included a “paid for by” disclosure that did not comply with the ECCO. Although the “paid for by” disclosures were printed in an easily legible typeface and in a color that contrasts with the background, they were printed in 10-point type instead of the requisite 12-point type.

At the post-audit conference held on April 28, 2015, the Committee's representative, attorney Richard Rios, pointed out that the disclosures printed on the campaign mailers comply with state law, and explained that he was not aware that San Diego's campaign laws require the disclosures be printed in 12-point type.

Section 27.2971: Failure to Comply with the "Paid for By" Disclosure in Mass Telephone Communications

SDMC Section 27.2971 requires committees that pay for mass telephone communications to include words "paid for by" immediately followed by the name of the committee that paid for it. The audit revealed that the Committee paid Fairbank, Maslin, Maullin, Metz & Associates, Inc. to conduct two separate telephone polls in April and May of 2012, each to 500 households, that did not include any "paid for by" disclosure. (The telephone communications referred to Proposition A and the mayoral candidacies of Carl DeMaio and Bob Filner.) The failure to include the requisite "paid for by" disclosure deprived the public of information concerning the source of funding for these campaign communications.

At the post-audit conference Mr. Rios explained that he was not aware that San Diego's campaign laws require a "paid for by" disclosure on polling calls. He noted that the state and other local jurisdictions apply the disclosure requirement only to calls made for advocacy purposes. Mr. Rios asserted that the Committee's disclosure omission was unintentional and that its overall actions evidence its intent to substantially comply with the City's campaign laws.

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 two material findings:**

- **the committee failed to comply with all aspects of the mass campaign literature "paid for by" disclosure requirements in San Diego Municipal Code section 27.2970; and**
- **the committee failed to comply with the mass telephone communications "paid for by" disclosure in San Diego Municipal Code section 27.2971.**

[REDACTED]

Rosalba Gomez
Ethics Commission Auditor

Date

[REDACTED]

Lauri Davis
Ethics Commission Senior Investigator

Date