



UPDATE REGARDING SAN DIEGO'S CAMPAIGN FINANCE LAWS

This bulletin supplements previous Ethics Commission bulletins concerning the impact of the *Thalheimer v. City of San Diego* lawsuit on the City's Election Campaign Control Ordinance. All previous bulletins are available on the Commission's website: www.sandiego.gov/ethics.

Re-Reporting Contributions Used to Fund Independent Expenditures

- ❖ As stated in previous bulletins, court rulings in the *Thalheimer* case have temporarily enjoined the City of San Diego from enforcing San Diego Municipal Code [SDMC] section 27.2936(b)'s requirement that general purpose recipient committees [GPRCs] use only contributions from individuals in amounts not exceeding \$500 when making independent expenditures in City candidate elections.
- ❖ In 2004, to ensure compliance with the above source and amount limitations, the City adopted sections 27.2930(b) and (c), and 27.2936(d), requiring GPRCs making independent expenditures to support or oppose a City candidates to file with the City Clerk a campaign statement identifying the individuals whose contributions were used to fund the expenditure, along with the amount attributed to those individuals.
- ❖ As a result of rulings in the *Thalheimer* litigation, there are currently no source or amount limitations for GPRCs participating in City candidate elections. In other words, a GPRC may use unlimited funds from any entity for independent expenditures supporting or opposing a City candidate.
- ❖ The Ethics Commission has recognized that the court ruling allowing GPRCs to accept unlimited contributions has largely eliminated the rationale for re-reporting. Accordingly, it will not be enforcing the re-reporting provisions of SDMC sections 27.2930(b) and (c), and 27.2936(d) on committees making independent expenditures for so long as the City is enjoined from enforcing SDMC section 27.2936(b)'s source and amount limitations. (Note that GPRCs must still report all contributors as required under state law.)

Re-Reporting Contributions Used to Fund Political Party Committee Contributions to City Candidates

- ❖ The re-reporting issue discussed above also applies to political party committees (because they are GPRCs), including when such committees make contributions to City candidates.
- ❖ Unlike other GPRCs, political party committees may make contributions directly to City candidates, subject to a \$1,000 limit.

- ❖ Following a court ruling in the *Thalheimer* case, but prior to June 17, 2010 (the effective date of the \$1,000 limit), political party committees could make unlimited contributions to City candidates. As stated in the Commission's May 24, 2010, bulletin, those contributions could be made only by using funds received from individuals in amounts up to \$500.
- ❖ The source and amount limitations contained in SDMC section 27.2936(b) served to prevent political party committees from being used as "pass-throughs" for unlimited individual or organizational contributions that would effectively circumvent the limits and source limitations currently in place for contributions to City candidates.
- ❖ Because SDMC sections 27.2930(b) and (c), and 27.2936(d) serve to ensure compliance with SDMC sections 27.2936(d)'s source and amount limitations, the Commission will still be enforcing these re-reporting requirements with regard to contributions from political party committees to City candidates made prior to June 17, 2010, when the \$1,000 limit went into effect.
- ❖ On the other hand, for political party committee contributions to City candidates made on or after June 17, 2010, the Ethics Commission recognizes that the \$1,000 limit itself largely curtails the possibility of a political party committee being used as a "pass-through." Accordingly, it will not be enforcing the re-reporting provisions of SDMC sections 27.2930(b) and (c), and 27.2936(d) for any contributions made to City candidates during the time that the \$1,000 limit on contributions from political party committees is in effect.

The *Thalheimer* litigation is still pending and may result in additional changes to San Diego's campaign finance laws. Please contact the Ethics Commission at ethicscommission@sandiego.gov or 619-533-3476 if you have questions regarding this matter.